

Prevent Chemical Disasters Now!

The Problem. According to the U.S. Environmental Protection Agency (EPA), there are more than 150 major chemical incidents each year in the United States. They lead to deaths, injuries, and community evacuations, and harm on-site workers, firefighters, teachers, school staff, and students. Moreover, fires and explosions destroy industrial sites, leading to job losses. They occur at chemical plants, oil refineries, paper mills, water treatment facilities, food manufacturers, refrigerated warehouses, and other sites. ***Yet, these incidents are preventable.***

PSM and RMP. After horrific chemical plant disasters, in 1990 Congress directed the Occupational Safety and Health Administration (OSHA) and EPA to issue regulations. In 1992, OSHA issued the Process Safety Management standard (PSM) to protect workers; in 1996, EPA issued the Risk Management Program rule (RMP) to protect communities. Both rules address hazard analysis, operating procedures, mechanical integrity, management of change, incident investigation, and other measures to reduce incidents.

While OSHA and EPA safeguards are similar, the RMP rule also requires management to identify off-site consequences and to estimate the population at potential harm from “worst case” toxic or flammable releases. Both regulations include almost identical, but inadequate, language for employee and union participation. Neither regulation requires facilities to consider whether they can adopt safer processes. Both need fundamental reform.

In 2017, the Obama-Biden Administration modestly strengthened the RMP rule, by requiring chemical plants, oil refineries, and paper mills to evaluate options for adopting safer processes. But in 2019, the Trump Administration rolled back this and other prevention-focused elements in the rule.

New Proposed RMP Rule. While OSHA has done little to update its PSM standard, President Biden’s EPA in August 2022 proposed a revised RMP rule. EPA says they will issue the final rule in summer 2023.

Read a concise, two-page EPA summary of the proposed rule at <https://www.epa.gov/system/files/documents/2022-08/Fact%20Sheet%20%28Regulated%20Facilities%29%20-%20RMP%20SCAPP%20Proposed%20Rule.pdf> and the proposed rule and supporting documents at <https://www.epa.gov/rmp/risk-management-program-safer-communities-chemical-accident-prevention-proposed-rule>

Read a detailed critique of the rule and extensive recommendations for improvement issued by NJ WEC with the AFL-CIO, National Coalition for Occupational Safety and Health, and seven national unions at <https://www.regulations.gov/comment/EPA-HQ-OLEM-2022-0174-0481>

You can also read comments by many other organizations at <https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0003/comment?sortBy=postedDate&sortDirection=desc>

Four Ways to Improve the Final Rule. EPA must issue a stronger *final* RMP rule to fulfill President Biden’s commitments to safer facilities, worker rights and environmental justice. It must require management of all high hazard facilities using extremely hazardous substances to:

1) Evaluate if they can transition to safer processes. Under the proposed rule, management must conduct “Safer Technology and Alternatives Analysis (STAA)” to determine if they could adopt safer processes, methods, or chemicals. This provision, however, would cover *merely 5% of 12,000 RMP sites*, far fewer than adopted under the 2017 Obama-Biden Administration proposal before Trump eliminated it. STAA is critical for environmental justice and worker safety. *EPA should require **all** RMP facilities to conduct STAAs or otherwise report safer process options evaluated, planned, or implemented.*

2) Broaden “Stop Work Authority (SWA)” to all workers at all RMP sites.

Employees and their representatives would have authority to:

a) Refuse to perform a task when doing so could reasonably result in a catastrophic release.

- b) Recommend to the operator in charge of a unit that an operation or process be shut down, based on potential for a catastrophic release.
- c) Allow a qualified operator in charge of a unit to shut down an operation or process, based on potential for a catastrophic release.

This is the first time that EPA or OSHA have proposed SWA and this would be a significant advance for workers. This provision, however, only authorizes *some* workers at *some* RMP facilities to have SWA, denying this critical safeguard to thousands of fellow workers, often employed *at the same facilities* with extremely hazardous chemicals. No worker's fundamental rights to protect their safety or the safety of the community should be limited because of facility type or complexity. *EPA should authorize uniform SWA for **all** workers at **all** RMP sites.*

- 3) Train workers about the new rule.** There is no provision in the current RMP rule or in the proposal for training about RMP provisions. Workers and their representatives are often unfamiliar with this rule, making them less likely to participate in hazard prevention, frustrating RMP's purpose. Training will help workers prevent releases. *EPA should require management, with the involvement of workers and their unions, to provide training on the RMP rule.*

- 4) Mitigate for floods and other extreme weather.** The proposal emphasizes that natural hazards, including from climate change, must be addressed by most RMP facilities when they conduct hazard analyses. The proposal also requires that management provide a written justification when recommendations from hazard analyses are not adopted. *If facilities project power loss or other impacts from extreme weather, EPA should require management to take steps to mitigate risk.*

Take Action!

Industry is fighting effective safeguards. To win a stronger RMP rule:

- Urge your members to contact EPA Administrator Michael Regan to demand a strong RMP rule. ***Request action materials that you can adopt and distribute to your own members from WEC.***
- Educate your members about preventing chemical disasters. ***WEC can provide speakers and workshops.***

New Jersey WEC: Leadership for Chemical Safety

WEC won landmark New Jersey policies to protect workers *and* the public that serve as precedents for national action, including: the safeguard that NJ employers using extremely hazardous substances must evaluate if they can adopt safer chemical processes, the only such state policy of its kind; the right of workers and union representatives to accompany inspectors to help enforce the Risk Management Program; and the requirement that NJ employers notify their employees annually about their right to speak out and act about safety risks without retaliation.

New Jersey's Toxic Catastrophe Prevention Program (TCPA) incorporates and enforces the federal RMP rules with NJ's more stringent requirements. If EPA adopts any rules that are more protective than New Jersey's, NJ's Department of Environmental Protection *must* subsequently adopt them.

About the New Jersey Work Environment Council (WEC).

Working together for safe, secure jobs, and a healthy, sustainable environment, WEC links workers, communities, and environmentalists through training, technical assistance, grassroots organizing, and public policy campaigns to promote dialogue, collaboration, and joint action.

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