

# Risk Management Program (RMP) Rulemaking

## Chemical Regulation



## Issue Summary

The Risk Management Program (RMP) Rule requires facilities using extremely hazardous substances to develop a Risk Management Plan that must be revised and resubmitted to EPA every five years.

The Risk Management Program rulemaking has been ongoing since 2015. A final rule was published in 2017 containing problematic requirements for specialty chemical manufacturers. SOCMA worked diligently to overturn the 2017 rule, and was successful in 2019 with the RMP Reconsideration Rule. Unfortunately, the Biden Administration mandated EPA further review the rule through a 2021 Executive Order.

SOCMA has four areas of concern in the rule:

1. Safer Technology and Alternatives Analysis (STAAs)
2. Third-party audit requirements
3. Information disclosure to local emergency planning committees (LEPCs)
4. Fenceline monitoring



## Impact on the Chemical Industry

The specialty chemical industry is unique from the commodity chemical manufacturing industry, because specialty chemicals are manufactured using batch processing. Commodity chemical companies use continuous process manufacturing, which means they utilize the same manufacturing process everyday in perpetuity. By contrast, specialty chemical manufacturers work within contracts and manufacture batches which means the process, equipment used and final product vary from week to week and month to month.

Once specialty chemical manufacturers complete a contract/batch, the manufacturing equipment is reconfigured, new and different input chemicals are purchased and a new product is manufactured. The variety of equipment, process, chemicals and fluctuating manufacturing environment creates significant challenges for inspectors and auditors in understanding the process of a specific facility.

## Current Status

- **Rulemaking Forthcoming:** The Biden Administration is expected to deliver a new proposed RMP rule by the end of 2022. This rule would supersede the Trump Administration rule, which resolved extremely problematic requirements for the industry.
- **SOCMA Task Force and Lobbying Efforts:** SOCMA is working with EPA to prevent the problematic provisions of the 2017 rule from reappearing in the new proposed rule, though the Biden Administration has indicated it strongly supports such provisions.

## SOCMA's Goal

SOCMA seeks to ensure future rulemakings do not include problematic provisions requiring Safer Technology & Alternatives Analysis (STAA), third-party audits, sensitive information sharing, or fenceline monitoring provisions.

## More on RMP

- **STAA provisions** would require companies to assess the implementation and cost of inherently safer technology, such as chemical substitution and process redesign. Safety is the core foundation of the specialty chemical industry. However, SOCMA opposes STAA mandates as they are subjective and lead to business uncertainty.
- **Third-party audit provisions** would mandate audits for RMP compliance following an RMP-reportable accident, or if the agency finds that conditions could lead to an accidental release. SOCMA opposes mandatory third-party audits because an external auditor is unlikely to have the requisite understanding of an individual facility that is necessary to make improvement recommendations for a batch manufacturer.
- **Public information-sharing provisions** would mandate information disclosures to Local Emergency Planning Committees (LEPCs) with no protections for security or confidential business information. While SOCMA fully supports transparency, these information-sharing mandates risk compromising security and disclosing intellectual property.
- **Fenceline monitoring** is costly and will not help mitigate the risk of accidental releases. The RMP rule is intended to prevent accidental releases. Fenceline monitoring cannot prevent releases and there is a lack of reliability of data from fenceline monitoring in any type of industrial complex.





## SOCMA Activity

**2015-2016**

- Participated in the Small Business Advocacy Review panel, lobbied and filed comments in opposition to the 2017 Amendments Rule

**2017**

- Filed comments and lobbied in support of delays of implementation of the RMP Amendments

**2018**

- Invited and attended signing of proposed RMP Reconsideration proposal
- Filed comments and lobbied to support proposed Reconsideration Rule
- Lobbied the White House Office of Management and Budget (OMB) in favor of finalizing the Reconsideration rule

**2019**

- RMP Reconsideration Rule is finalize resolving SOCMA member concerns with specific provisions

**2021**

- Presidential Executive Order mandates EPA review RMP Reconsideration Rule
- Testified and delivered public comments to EPA

**2022**

- Lobbying OMB and EPA to keep problematic provisions out of forthcoming rulemaking