

## Compliance With a Few of EPA's New RMP Program Changes Is Required Starting in May 2024

Update

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On March 11, 2024, EPA's "Safer Communities by Chemical Accident Prevention Rule" (the SCCAP Rule) was published in the Federal Register. See 89 Fed. Reg. 17622 (Mar. 11, 2024). The SCCAP Rule makes a number of significant changes to the federal Risk Management Plan (RMP) program. For a discussion of the final SCCAP Rule and its implications for the scope of the Process Hazard Analysis (PHA), third-party compliance audits, new employee participation requirements and expanded information sharing with the public and local emergency responders, please see our March 14, 2024 webinar, ["Round Three: EPA's Latest Changes to the RMP Program – Initial Insights and Next Steps."](#)

The most significant of the new RMP requirements adopted in the SCCAP Rule have a three-year compliance deadline. For example, the requirement to hire an independent third-party to conduct the triennial RMP compliance audit in certain circumstances does not become applicable until May 10, 2027 (i.e., three years after the May 10, 2024, effective date of the final rule). However, there are several aspects of the SCCAP Rule – ones that EPA characterized as "clarifications" that codified existing industry practice – for which compliance is required as of the rule's May 10, 2024, effective date.

This alert identifies the new RMP program changes for which compliance will be required starting on May 10, 2024. The list was generated by comparing the changes adopted in the SCCAP Rule to the list of changes specified in new 40 C.F.R. § 68.10(g)(1)-(7) as having a compliance date of May 10, 2027. For the requirements listed below, the regulated community can reasonably expect an EPA inspector to evaluate compliance in your next RMP inspection.

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## Process Safety Information

- The requirement to “document that equipment complies with recognized and generally accepted good engineering practices (RAGAGEP)” has been replaced with a requirement “to ensure and document that the process is designed in compliance with RAGAGEP” (Program 2) or a requirement “to ensure and document that the process is designed and maintained in compliance with RAGAGEP” (Program 3). 40 C.F.R. § 68.48(b) (Program 2); 40 C.F.R. § 68.65(d)(2) (Program 3). (This change to the rule language may not require changes to past practices – clients are encouraged to conduct an assessment to verify and to document the results in their management system.)

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## Hazard Review/Process Hazard Analysis (PHA)

- The addition of stationary source siting as part of the Program 2 Hazard Review, and the clarification that the consideration of stationary source siting in the Hazard Review or PHA (Program 3) must include “the placement of processes, equipment and buildings within the facility, and hazards posed by proximate stationary sources, and accidental release consequences posed by proximity to the public and public receptors.” 40 C.F.R. § 68.50(a)(6) (Program 2); 40 C.F.R. § 68.67(c)(5) (Program 3).
- The new requirement specifying that the Hazard Review or PHA address “natural hazards that could cause or exacerbate an accidental release.” 40 C.F.R. § 68.50(a)(5) (Program 2); 40 C.F.R. § 68.67(c)(8) (Program 3).

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## Operating Procedures

- The additional language specifying that, as part of addressing safety systems and their functions, operating procedures include “documentation when monitoring equipment associated with prevention and detection of accidental releases from covered processes is removed due to safety concerns from imminent natural hazards.” 40 C.F.R. § 68.52(b)(9) (Program 2); 40 C.F.R. § 68.69(a)(4) (Program 3).

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## Hot Work Permits (Program 3 only)

- The requirement to retain hot work permits for three years after the completion of the hot work operations. 40 C.F.R. § 68.85(c). Prior to the SCCAP Rule, Program 3 sources had to retain the permits until the work was complete.

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## Emergency Response Plan

- New rule language specifying that the plan must include “providing timely data and information detailing the current understanding and best estimates of the nature of a release when a release occurs,” with additional clarifying language that this requirement can be satisfied through other federal, state or local notification requirements, “provided the notification meets the requirements of this paragraph.” 40 C.F.R. § 68.95(c).

Please reach out to a member of the Bracewell ELR team if you have any questions about these or other of the new RMP program requirements.