

**New Jersey Work Environment Council
Coalition to Prevent Chemical Disasters
ACTION ALERT**

Chemical Facilities Must Hold Public Meeting After an Incident with Offsite Consequences

By law, **effective March 15, 2021**, many chemical facilities must hold a public meeting within 90 days of any incident that results in *offsite* deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage. This U.S. Environmental Protection Agency (EPA) rule covers about 12,000 facilities across the nation that use specified extremely hazardous substances in certain quantities, including many oil refineries, chemical plants, paper mills, food processing operations, water and sewerage treatment plants, etc.. (See <https://www.epa.gov/rmp/risk-management-plan-rmp-rule-overview>)

This provision is part of the Risk Management Program (RMP) revised rule issued by EPA in 2017. President Trump withdrew most of the rule in 2019, but retained much of the public meeting requirement.

The rule states: *§ 68.210 Availability of information to the public.*

(b) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under § 68.42(b), no later than 90 days after any RMP reportable accident at the stationary source with any known offsite impact specified in § 68.42(a).

Take Action

Facility management may host this meeting simply to comply with the law and for public relations, not to explain the steps they will take to prevent future incidents.

This meeting, however, can offer your organization an opportunity to:

- Urge specific measures from management to prevent another chemical incident and for ongoing public accountability;
- Build relationships with local residents, facility workers and their unions, health professionals, civil rights organizations, etc.;
- Engage TV, radio, print, and social media coverage;
- Involve the Local Emergency Planning Committee, EPA, OSHA, US Chemical Safety Board, and other agencies;
- Identify how President Biden's EPA could improve the public meeting rule.

Question and Answers

How will the public find out about a meeting? The facility must provide a public notice of when and where the meeting will be held. See 84 FR 69834, December 19, 2019, page 69891 at <https://www.govinfo.gov/content/pkg/FR-2019-12-19/pdf/2019-25974.pdf> By law, the facility needs only to provide a single notice to members of the public to inform them when and where the meeting will be held. There is no requirement for notices in languages other than English. Contact the facility directly to find out about their plans for a meeting.

Which facilities are covered by this requirement? Visit <https://rtk.rjifuture.org> for an indication if the facility is covered. Also, contact the RMP implementing agency (i.e., EPA Regional Office or, for delegated programs, the state or local implementing agency) to determine whether or not a recent incident was at an RMP facility. You can also contact the facility itself.

What does “offsite” mean? “Offsite” means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

What must be discussed at the meeting? (b) *Data required.* For the recent incident, the operator shall report information, including:

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| (1) Date, time, and approximate duration of the release; | (6) Weather conditions, if known; |
| (2) Chemical(s) released; | (7) On-site impacts; |
| (3) Estimated quantity released in pounds and, for mixtures containing regulated toxic substances, percentage concentration by weight of the released regulated toxic substance in the liquid mixture; | (8) Known offsite impacts; |
| (4) Five or six-digit NAICS (industry type) code that most closely corresponds to the process; | (9) Initiating event and contributing factors if known; |
| (5) The type of release event and its source; | (10) Whether offsite responders were notified if known; and |
| | (11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with § 68.168. |

Where can I read (and print out) Risk Management Plans? To read these plans and learn about past incidents, visit the Right to Know Network web site at <https://rtk.rjifuture.org>

Where can I obtain information about a specific facility’s potential offsite consequences and “worst case scenarios” for chemical releases? Facility management is not required to provide this information to the public, but you can review it in a federal Reading Room. Visit <https://www.epa.gov/rmp/federal-reading-rooms-risk-management-plans-rmp#arrive> for information, including limits on public access.

Questions to consider asking management about their plans to reduce chemical hazards.

Will you make prevention-oriented safety changes, such as: [a] Substituting less hazardous chemicals? [b] Reducing storage quantities and shipping? [c] Switching to ambient temperatures and pressures? [d] Simplifying processes to anticipate errors?

Will you make other safety improvements such as: [a] Using safer shipping and handling? [b] Installing secondary containment? [c] Adding automatic sensors and shutoffs? [d] Adding devices to neutralize or destroy leaks?

How will this rule be enforced? The implementing agency (i.e., EPA Regional office or delegated state or local agency) can take enforcement action for failure to meet the requirement. In addition to monetary penalties, enforcement actions can include injunctive relief, and in the case of failing to meet the public meeting requirement, such relief could be to actually hold the public meeting. EPA also has a tip/complaint process where the public can inform EPA about a suspected violation. See: <https://echo.epa.gov/report-environmental-violations>. Additionally, you can contact the state or local implementing agency; EPA regional contacts are on EPA's website: <https://www.epa.gov/rmp/epa-regional-rmp-contacts>. Clean Air Act citizen suit provisions also apply.

Can management withhold certain information? Yes, they can withhold: (c) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other Federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

Can Local Emergency Planning Committees (LEPC) obtain additional information from the facility? Yes. For help finding your local LEPC, go to: www.epa.gov/epcra/state-emergency-response-commissions-contacts Also, see https://www.epa.gov/sites/production/files/2015-05/documents/epcra_fact_sheet.pdf

Does management have to report that they held a public meeting? Yes. In the first RMP plan update to EPA after December 19, 2024, management must specify whether a public meeting was held following an RMP reportable incident.

Where can I find further background about the development of this rule? <https://www.govinfo.gov/content/pkg/FR-2019-12-19/pdf/2019-25974.pdf> The section on public meetings begins on page 69890.

Who at EPA can I contact if I have questions? Contact Deanne Grant in EPA's Office of Emergency Management at grant.deanne@epa.gov

For more information on organizing to prevent chemical disasters, visit:
<https://preventchemicaldisasters.org> and <https://njwec.org>

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