

## INSIGHTS

## EPA Proposes to Delay the Effective Date of RMP Rule Amendments to 2019

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On April 3, 2017, the U.S. Environmental Protection Agency (EPA) published a proposed rule that would delay the effective date of the recent Risk Management Program (RMP) rule amendments to February 19, 2019. *82 Fed. Reg.* 16146 (Apr. 3, 2017).

EPA published amendments to the 40 C.F.R. Part 68 RMP rule in the final days of the Obama administration. *82 Fed. Reg.* 4594 (Jan. 13, 2017). Those amendments changed a number of RMP program elements, including compliance audits, the process hazard analysis (PHA) process, emergency response drills and preparedness activities, and information sharing with the public and local emergency responders. While the compliance date for most of the substantive RMP changes is four years *after* the effective date of the amendments, implementation of the changes would require action well in advance of the compliance date, and other requirements – most notably an expansion in scope of compliance audits – will affect sources after the amendments become effective.

The RMP rule amendments have been the subject of significant scrutiny and several regulatory developments since the final rule was published in the *Federal Register*. Petitions for reconsideration have been filed by two industry groups and a coalition of states, and in response, EPA has extended the effective date of the amendments *twice*: pushing the original effective date (March 14, 2017) back to March 21, 2017, and further to June 19, 2017. *See 82 Fed. Reg.* 13,968 (Mar. 16, 2017). In addition, both houses of Congress have filed resolutions seeking to repeal the RMP amendments under the Congressional Review Act (CRA).

The proposed rule published on April 3 would delay the effective date of the RMP rule amendments again by nearly two years, to February 19, 2019. EPA explains in the proposal that the delay would allow the agency to evaluate the issues raised in the petitions for reconsideration. EPA plans to issue, in the near future, a notice of proposed rulemaking that will provide the public an opportunity to comment on the issues raised in the petitions and “any other matter” that EPA believes will benefit from additional public input.

EPA will take comment on the proposed delay in the effective date of the RMP rule amendments until May 19, 2017, giving it 30 days after the close of the comment period to take action prior to the amendments' current effective date.

If you have any questions about the RMP rule amendments, their potential impacts on sources subject to the program, or the latest developments, please contact a member of Bracewell's Environmental Strategies Group.

[Click here](#) to access a copy of today's proposed rule.