

Executive Order 13650 Update: Proposed Changes to OSHA's PSM Regulation



Most of the discussions to date surrounding changes based on [Executive Order 13650, "Improving Chemical Facility Safety and Security"](#), have been focused on the RMP regulation as the process has moved quickly with an expected finalization of the regulation by the end of the year (Proposed Final Rule published 3/14/2016, public comment period ended 5/13/2016).

However, OSHA has been making some headway. On June 2, 2016, OSHA began the first step in publishing changes to the regulation by initiating a Small Business Advocacy Review (SBAR) Panel in order to get feedback on several potential revisions to OSHA's Process Safety Management (PSM) Standard. The EO charged the Agency to "identify issues related to modernization of the PSM Standard and related standards necessary to meet the goal of preventing major chemical accidents." The list of topics OSHA is reviewing and considering for revisions are based on "industry best practices, inspection history, stakeholder comments received in response to OSHA's [2013 Request for Information](#) and lessons learned from accidents involving highly hazardous chemicals."

Topics included in the 2013 Request for Information include:

- Clarifying the PSM Exemption for Atmospheric Storage Tanks
- Oil and Gas-Well Drilling and Servicing
- Oil and Gas-Production Facilities
- Expanding PSM Coverage and Requirements for Reactivity Hazards
- Expanding the scope of Paragraph (e) by requiring safer technology and alternatives analysis
- Updating the List of Highly Hazardous Chemicals in Appendix A of the PSM Standard
- Revising the PSM Standard To Require Additional Management-System Elements
- Amending Paragraph (d) of the PSM Standard To Require Evaluation of Updates to Applicable RAGAGEP
- Clarifying the PSM Standard by Adding a Definition for RAGAGEP
- Expanding the Scope of Paragraph (j) of the PSM Standard To Cover the Mechanical Integrity of Any Safety-Critical Equipment
- Revising Paragraph (n) of the PSM Standard To Require Coordination of Emergency Planning With Local Emergency-Response Authorities
- Amending Paragraph (m) of the existing PSM standard to require root cause analysis
- Revising Paragraph (o) of the PSM Standard To Require Third-Party Compliance Audits
- Expanding the Requirements of § 1910.109 To Cover Dismantling and Disposal of Explosives, Blasting Agents, and Pyrotechnics
- Several additional minor modifications which largely codify existing OSHA interpretations of the PSM standard
- Soliciting feedback on any similar provision of EPA's RMP Rule and the PSM standard that could be streamlined.

SBAR Panel Overview

The panel consists of the following:

- members from OSHA,
- the Small Business Administration's Office of Advocacy (SBA's Office of Advocacy, or Advocacy), and
- the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

The Panel allows Small Entity Representatives (SERs) to discuss and present how changes in the regulation may impact a small business and other small entities. They will also be given a platform to suggest ways to minimize those impacts while meeting OSHA's goals. The Panel will provide a report on the comments of the SERs, recommendations for the Agency on its analysis of the SERs comments, and possible approaches to minimize impacts on small entities.

The SBAR Panel is being conducted early in the process to assure its reports are considered during the rulemaking activities as OSHA has not yet determined whether to address all or some of the issues listed in the 2013 RFI. Several teleconferences took place in June 2016 in which each SER was given the opportunity to provide comments to the SBAR Panel. SERs will also have the opportunity to provide written comments, due by July 8, 2016. The SBAR Panel will provide its final report approximately one month after the teleconferences have ended.

We await the outcome of SBAR and the next step in OSHA's revised updates to the PSM Regulation.