

The Costs and Risks of RMP / CalARP / PSM Non-Compliance & How To Avoid Them

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EPA RMP / CalARP / PSM Management's Commitment

- ✓ **Management's commitment to process safety is a critical element of any facility's EPA Risk Management Program (RMP), CalARP, and/or OSHA Process Safety Management (PSM) program.** Since the programs require ongoing implementation of accident prevention and emergency response measures, **management's commitment does NOT end when the risk management plan is submitted** to EPA and or the CalARP – CUPA.
- ✓ For process safety to be a constant priority, **management and facility personnel must DAILY remain committed to every element of their Risk Management Program.**
- ✓ Remember, it's your choice: **FORCED** and very costly or **Voluntary Compliance.**

RMP / CalARP / PSM

Typical But Avoidable Deficiencies

- ✓ **Typical Deficiencies – Resulting in costly EPA & OSHA Citations for 15+ years at numerous companies nationwide:**
 - **PHA recommendations** (*lack of documented follow-up*)
 - **Compliance Audit recommendations** (*lack of documented follow-up*)
 - **Mechanical Integrity** (***Remember, PM should mean preventive, predictive, & planned maintenance NOT past midnight***) **Program**
 - Inadequate maintenance freq. / tasks (*e.g. lack of documentation*)
 - Incomplete work orders and daily logs (*e.g. lack of follow-up*)
 - Pass-down logs or logbooks (*e.g. lack of follow-up*)
 - **Independent Mechanical Integrity 5-year Audits** (*lack of follow-up*)
 - **Management of Change** (*not being utilized or not documented*)
 - **Incident Investigations** (*not being documented properly or not done*)
 - **Process Safety Information** (*lack of documentation or not accurate*)
 - **Training** (*not being documented and or not done*)
 - **Contractor Safety Program** (*not being followed*)
 - **RMP/CalARP updates & PHA revalidations** (*lack of or past due*)

RMP / CalARP / PSM Compliance Summary

- ✓ **Agency Inspections by EPA RMP / CalARP and OSHA / CalOSHA should be anticipated / expected and you need to be prepared for them before they occur.**
- ✓ **If you allow your RMP / CalARP / PSM programs to just sit on a shelf and collect dust you will be in for a rude awakening when your facility is inspected by any of the agencies especially if they are unannounced.**
- ✓ **Typically plant management and mechanics are tasked with keeping production operating and running!**
 - **All too often compliance documentation and non-production related (e.g. ammonia system) maintenance tends to get put on a back burner. This can easily result in agency citations and fines. Please remember; Management and facility personnel must remain committed to compliance on a daily basis.**

The Costs and Risks of RMP Non-Compliance

- ✓ **Recent April 2013 EPA Settlement** with Tyson Foods **to Address Multiple eight (8) Releases of Anhydrous Ammonia from Oct. 2006 thru Dec. 2010** and the Settlement **requires Tyson for their 23 plants in EPA Region VII to:**
- ✓ **Pay a \$3,950,000 penalty.** Tyson has also agreed to implement a supplemental environmental project to purchase \$300,000 worth of emergency response equipment for first responders in communities with significant environmental justice concerns in which Tyson operates facilities. *Tyson employs approximately 117,000 people at 400 facilities nationwide.*

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ **Tyson's numerous RMP deficiencies** *“quoted from the 4/5/13 U.S. EPA News Release”* **are described on the following eight slides.** Constituted violations of 40 C.F.R. Part 68, and therefore are violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). **In addition to the \$3.95 million dollar penalty. Tyson faces a HUGE cost to upgrade their processes.**
- ✓ **Remember, if an organization is committed and PROACTIVE rather than being reactive by only attempting to prepare for scheduled audits & inspections; it will help their facilities avoid most releases, exposures, bad press, citations, and fines!**

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On October 31, 2006, an anhydrous ammonia release occurred at the South Hutchinson, KS facility resulting in one fatality and one injury. An OSHA investigation revealed that the Standard Operating Procedure (SOP) requiring personal protective equipment was inadequate and that the safety relief valve that failed was installed incorrectly, and was corroded and worn.”
- ✓ *Failure of SRV likely resulted from NOT following MOC program and a lack of maintenance!*

The Costs and Risks of RMP Non-Compliance

- ✓ “On **November 8, 2006**, an anhydrous ammonia release occurred at the Sedalia, MO facility resulting in **three onsite injuries** and \$125,000 in property damage. **EPA** conducted an **inspection on November 18, 2009**, and **found that the February 17-20, 2009. Process Hazard Analysis noted numerous deficiencies which had not been corrected, including Management of Change Review** related to valve motors and multiple **nuisance leaks occurring during the manual operation of the valves** (**similar to what occurred on the November 8, 2006, ammonia release**).”

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On **December 9, 2006**, an anhydrous ammonia release occurred at the Hutchinson, KS facility resulting in **ten injuries** and 43.71 pounds migrating off-site. An **OSHA** inspection revealed that the **vibration on the filter housing caused threads to deteriorate, allowing the filter oil seal to fail.**”
- ✓ **Should the plant have had checking for unusual vibrations and unusual noises included in their daily rounds per IIAR Guidelines, PM Program, and training program? *If not, it should have been and the incident may have been prevented.***

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On December 26, 2006, an anhydrous ammonia release occurred at the Omaha, NE facility resulting in 5 on-site injuries and the evacuation of 475 employees. Both OSHA and EPA conducted inspections which revealed that Tyson’s mechanical integrity (PM) program relative to the change out of the failed valve was not implemented and there was no documentation of the inspection, testing or 5-year change-out of the safety relief valve.”

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On **October 4, 2007**, and November 5, 2009, there were anhydrous **ammonia releases** at the Perry, IA facility that **injured the same employee**. **Tyson blamed** the October 4, 2007, incident on **operator error** alleging that the employee failed to lock out the ammonia line when initiating a line break and failure to follow SOPs for proper personal protective equipment. However, it was also noted in incident investigation that there was a **3 way safety relief valve failure**.”
- ✓ **What do you think the agency felt was the likely root cause?**

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ **Given the number of previous releases from safety relief valves (SRVs) at various Tyson plants along with the EPA & OSHA citations in 2006 & 2007, what likely would have happened if they had early on begun proactively sharing “Lessons Learned” regarding what should be implemented at each of their sites to prevent the same or similar releases / problems in the future at any of their 400 facilities? *Future releases from SRVs could have likely been prevented.***
- ✓ “On October 30, 2007, there was an anhydrous ammonia release at the Tyson Sioux City, IA facility that resulted in **one injury** and the **release of 3,867 lbs. of ammonia.**”

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On November 5, 2009, the same employee was exposed to anhydrous ammonia, burned over 25% of his body and spent 45 days in the hospital. Again, Tyson blamed the operator and cited four operator errors in the incident investigation report: failure to pump out/lock out; failure to utilize a line breaking permit; lack of use of PPE; and failure to follow proper hand valve opening and closing SOP guidelines. However, OSHA found that there was a broken and/or defective reducer in the safety relief valve that should NOT have been there and that lead to the valve failure.”
- ✓ **What do you think OSHA felt was the likely root cause?**

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ “On **December 13, 2010**, an anhydrous ammonia release occurred at the Madison, NE facility resulting in **three injuries** and a release of 309 lbs (*the R.Q. is 100#*). of ammonia. Tyson states in its May 23, 2011, response to EPA’s Information Request that given the date of the incident; the incident investigation is still open. **The point of discharge was from a pressure relief valve header on the roof.**”
 - **Note: RMP/CalARP Updates are required “Within 6 months of a reportable release” and they were either approaching or had already past the deadline. FYI-updates are also required within 30-days of a change in Emergency Contact Info.**

The Costs and Risks of RMP Non-Compliance

- ✓ **“Tyson is required to conduct third-party audits** of its current compliance with the CAA’s Risk Management Program requirements **at all 23 facilities** in Kansas, Iowa, Missouri, and Nebraska. **The third-party auditors must** have expertise in ammonia refrigeration systems, be recognized experts in risk management program compliance, and **be approved by EPA.”**
- ✓ **It’s obvious to me that Tyson was NOT either conducting or correcting and responding in a timely manner to previous Independent M.I. Audit findings that are required every 5-years per the IIAR Guidelines and as required by both EPA & OSHA for 10+ years.**

The Costs and Risks of RMP Non-Compliance

- ✓ “Tyson Consent Decree Appendix A: The (*third party Independent Mechanical Integrity [M.I.] Audits*) Auditor shall evaluate Tyson's ammonia refrigeration system engineering and design specifications PSM/RMP Program Manual for compliance with 40 C.F.R. § 68.65(d)(2),(3) and for consistency with the **most current design codes and standards.**” *Referenced and listed on next couple of slides:*
- ✓ **NOTE: This might cause other EPA Regions to use the same requirements in the future. This would have a major cost impact due to NO Grandfathering and having to upgrade ammonia refrigeration systems to comply with the MOST CURRENT design codes and standards.**

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ **The design codes and standards are listed (*that Tyson is required upgrade their systems to comply with*) in the current PSM/RMP Program Manual per the EPA Consent Decree Appendix A as follows:**
 - *ANSI/ASHRAE 34*
 - *ASME Boiler and Pressure Vessel Code*
 - *ANSI/ASME B31.5, Refrigeration Piping*
 - *NFPA 70 - National Electrical Code*
 - *ANSI/ASHRAE 15- — Safety Code for Mechanical Refrigeration*
 - *ANSI/IIAR 2, IIAR 3, IIAR 5, IIAR Bulletins - 107, 108, 109, 110, 111, 112, 114, and 116, ARTG-GDL 1*

The Costs and Risks of RMP/PSM Non-Compliance

- ✓ **The design codes and standards are listed (*that Tyson is required upgrade their systems to comply with*) in the current PSM/RMP Program Manual as follows:**
 - *Additional location-specific codes may apply. The Auditor shall determine local codes applicable to the covered processes at each Facility, including, but not limited to, the codes listed below:*
 - Uniform Building Code & National Building Code
 - Uniform Mechanical Code & International Mechanical Code
 - Uniform Plumbing Code
 - National Electric Code
 - Fire Code: International Fire Code
 - Fire Code: National Fire Protection Association Fire Code

The Costs and Risks of RMP Non-Compliance

- ✓ Tyson agreed to perform non-destructive testing (NDT) that is designed to identify piping that was partly responsible for some of the anhydrous ammonia releases by testing threaded piping connections less than two (2) inches in diameter because of their potential for failure. **"Non-Destructive Testing Protocol" shall mean the entirety of the compliance obligations** described in and established in Appendix B to this Consent Decree. **Note: this also applies at all 23 Tyson plants in Region VII!**
- ✓ **NOTE: This might also cause other EPA Regions to require extensive NDT in the future, if similar deficiencies are identified such as using under sized Sch. 40 vs. Sch. 80 on 2" or less threaded pipe and fittings.**

The Costs and Risks of RMP Non-Compliance

- ✓ Please realize Tyson received a \$3,950,000 fine from the EPA **but the actual cost to comply** with the aforementioned EPA Consent Decree requirements **could easily exceed \$25,000,000 to \$50,000,000 or more** due to the age of their ammonia systems **just for their 23 plants in EPA Region VII.**
- ✓ **Note: We need to understand that the rest of Tyson's 400 plants and other companies such as yours in other EPA Regions might also be held to the same or similar requirements (e.g. NO Grandfathering, NDT testing, etc...) identified in the EPA Consent Decree during future inspections and at what cost to them.**

Avoiding “*The Costs and Risks of RMP/PSM Non-Compliance*”

✓ **What are some proactive things Tyson could have done Company wide starting in 2006 & 2007 to help prevent the April 2013 EPA Region VII Tyson Consent Decree?**

- Assuring that their Mechanical Integrity (Preventive Maintenance) Programs were documented and that ALL testing & inspections were current & frequencies were per the Manufacture’s or IIAR Guidelines;
- Assuring that their Management of Change (MOC) program was being utilized for ALL changes to their ammonia refrigeration system(s);
- Assuring that all relief valves were replaced every five years and that they were properly sized and installed using MOC Program;
- Assuring that ALL PHA recommendations were properly addressed in a timely manner;
- Assuring that ALL vessels and piping were inspected at least annually and that the inspections were properly documented.

Avoiding “*The Costs and Risks of RMP/PSM Non-Compliance*”

- ✓ **Sharing “Lessons Learned” could have prevented many of their problems!** Any company can start by proactively sharing what they learn from various sources such as: agency press releases, citations, articles (*e.g. RETA*) re: incidents, releases, injuries, equipment failures, etc... that others have experienced.
- ✓ **EXAMPLE:** In light of recent citations and/or recommendations from EPA RMP and OSHA inspections the following should be implemented at each of our regulated sites immediately: **It’s only helpful if you follow through of what’s being recommended!**
 - To help assure that our RMP/PSM regulated sites are better prepared for future OSHA, CalOSHA, EPA RMP, and/or CalARP inspections; each regulated site should use the attached (*PSM-RMP Compliance.docx*) list of critical PSM and RMP related compliance requirements as guidance for your future PSM/RMP Quarterly Team Meetings and your compliance validation efforts.

The Costs and Risks of PSM Non-Compliance

- ✓ Recent July 2013 Pilgrim's Pride OSHA Citations are just another excellent example and reminder why it's critical that each PSM/RMP regulated plant understand the costs and risks of non-compliance and learn how to avoid them!
- ✓ Pilgrim's Pride total proposed penalties \$170,000 for:
 - 11– Serious violations (up to \$25K / citation); 2– Willful violations (up to \$250K / citation); & 1– Repeat (14) violation (up to \$15K / day).

The OSHA proposed penalties could have been much larger (\$6+ Mil)!
- ✓ **The recent Pilgrim's Pride OSHA PSM Citations also clearly reveal the importance of continuing to assure that the following (next 5 slides show what they were cited for not doing and how to avoid similar citations) are NOT a problem at any plant with an ammonia refrigeration system such as:**

Avoiding “*The Costs and Risks of PSM/RMP Non-Compliance*”

- ✓ **Assure that relief valves are replaced every five years and that they are properly installed / sized** and inspected per IIAR Guidelines. Also assuring that the inspections are properly documented.
- ✓ Assure that early warning systems (e.g. detection systems) are in place and operational. Also assuring that the tests and inspections are properly documented.
- ✓ **Assure that ALL PHA recommendations are properly addressed in a timely manner including documenting: What was done, Who did it, and When it was completed or when it will be completed.**

Avoiding “*The Costs and Risks of PSM/RMP Non-Compliance*”

- ✓ **Assure that your Mechanical Integrity** (*Remember, PM means preventive, predictive, & planned maintenance NOT past midnight.*) **Program is documented including tasks and that ALL testing & inspections** (*e.g. ammonia detection system, compressors, pumps, calibration of alarms, level indicators, controls, safety cut-outs, piping, vessels, valves, insulation, relief valve’s, ventilation system, emergency response equipment, etc...*) **are current per scheduled frequencies.**
 - *Note: Assure that your maintenance frequencies, tasks, and inspections are per the Manufacturer’s and/or IIAR Guidelines and compare them to your scheduled / identified frequencies.*
 - **Management should consider proactively reviewing their testing & inspections weekly to assure that are being completed on schedule.**

Avoiding “*The Costs and Risks of PSM/RMP Non-Compliance*”

- ✓ **Assure that your “Management of Change” (MOC) Program is being properly utilized for ALL changes** to your ammonia refrigeration system(s) including removing equipment from service; verifying that PRV’s/SRV’s are properly sized (*including the SCFM rating*); etc... **Also assuring that P&IDs, SOPs, PSI, PM Program, Training, etc... are updated when changes to the process occur.**
- ✓ Assure that your ventilation and detection systems are properly installed, properly tested, and that the tests & inspections are properly documented.
- ✓ **Assure and document that “Standard Operating Procedures” are current and accurate at least annually.**

Avoiding “*The Costs and Risks of PSM/RMP Non-Compliance*”

- ✓ **Assure that “Incident Investigations”** (*e.g. anytime employees smell ammonia, are evacuated, there are near misses, etc...*) **are documented, properly investigated to determine actual root cause, and signed off.**
 - Use MOC program to document investigation corrective actions and update appropriate P&IDs, SOPs, PSI, Training, PM Program, etc...
- ✓ **Assure that “Training” is current and signed off** for everyone who operates or maintains your ammonia refrigeration system(s).
 - Note: Documented proof of training is required every 3-years and don't forget training must be completed before new hires are allowed to work on the ammonia system equipment.

Avoiding “*The Costs and Risks of PSM/RMP Non-Compliance*”

- ✓ **Assure that ALL vessels, valves, and piping are inspected at least annually and that the inspections are properly documented.**
- ✓ **Assure that ALL compressor and other safety cutouts (e.g. high/low level shutdowns) are tested annually and that the tests/inspections are properly documented.**
- ✓ **Note: In October 1997 OSHA and a few years later EPA adopted the IIAR recommended standards and practices “Bulletins” which serve as the standards of “Industry Practice” (*assure that your plant follows them and knows your program*) for future citations at other facilities with ammonia refrigeration PSM/RMP regulated processes nationwide.**

RMP / CalARP / Fed OSHA / Cal OSHA Compliance Matrix

Program Requirements	RMP EPA (40 CFR Part 68)	CalARP (CCR Title 19)	PSM Fed OSHA (CFR Title 29)	PSM Cal OSHA (CCR Title 8)
Management System	68.15	2735.6		
Hazard Assessment	68.20 – 68.42	2750.1 – 2750.9		
Process Safety Information (PSI)	68.65	2760.1	1910.119 (d)	5189 (d)
Process Hazard Analysis (PHA)	68.67	2760.2	1910.119 (e)	5189 (e)
Operating Procedures (SOP's)	68.69	2760.3	1910.119 (f)	5189 (f)
Training	68.71	2760.4	1910.119 (g)	5189 (g)
Mechanical Integrity (<i>PM Program</i>)	68.73	2760.5	1910.119 (j)	5189 (j)
Management of Change (MOC)	68.75	2760.6	1910.119 (l)	5189 (l)
Pre-Startup Safety Review	68.77	2760.7	1910.119 (i)	5189 (i)
Compliance Audit	68.79	2760.8	1910.119 (o)	
Incident Investigation	68.81	2760.9	1910.119 (m)	5189 (m)
Employee Participation	68.83	2760.10	1910.119 (c)	5189 (p)
Hot Work Permit	68.85	2760.11	1910.119 (k)	5189 (k)
Contractors	68.87	2760.12	1910.119 (h)	5189 (h)
Emergency Planning & Response	68.95	2765.1 – 2765.2	1910.119 (n)	5189 (n)
Trade Secrets			1910.119 (p)	
Injury Illness Prevention Plan				5189 (o)

Realize the Majority of the (*highlighted*) Program Requirements are common to all of the regulations.

Remember: ALL of the program essentials must be fully interactive and integrated with the others to avoid major problems such as multiple agency citations and major fines.

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

- ✓ **Management being PROACTIVE rather than reactive will help your organization avoid most releases, exposures, bad press, citations, and fines!**
- ✓ Consider using the *Stanislaus CalARP Program 2-3 Audit-Inspection Checklist* **in a proactive manner.**
 - Consider modifying the Checklist “Findings Comment” section to document “*Comments / Action Plans and Location of Documentation*” for each requirement and;
Management should assure that their plant is continuing to proactively conduct and are accurately documenting their plants periodic RMP/PSM Team compliance reviews and taking the appropriate actions to correct in a timely manner any identified deficiencies.

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

- ✓ An example for the “RMP Updates” requirement question:
 - *Located in Maintenance Planner Schedulers office on the top shelf of his shelving unit in a binder named FTP-1 Prevention Program.*
 - *Turlock "C Street" PHA Re-validation due 8/14 and RMP/CalARP Re-submittal **on or before 10/7/14.***
 - *Turlock TDC PHA Re-validation due 8/14 and RMP/CalARP Re-submittal **on or before 10/7/14.***
 - *Turlock FTP-1 PHA Re-validation due 12/14 and RMP/CalARP Re-submittal **on or before 3/1/15.***
- ✓ ***Note if you exceed the on or before date it's a violation!***

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

- ✓ An example for the 3-year “Training” requirement:
 - *In the training file in the top drawer of the filing cabinet labeled PSM INFO.*
 - *Moses XXXXXXXX Completed 1/07/11 Due 1/14*
 - *Gayle XXXXXXXX Completed 06/01/2012 Due 1/15*
 - *Brian XXXXXXXXXX Completed 04/09/2012 Due 4/15*
 - *Carlos XXXXXX, Completed 04/05/2012 Due 4/15*
 - *Dale XXXXXXXXXX Completed 05/25/12 Due 5/15*
 - *Bob XXXXXXXXXX Completed 05/25/13 Due 5/16*
 - *Charlie XXXXXXXXXX Completed 07/25/13 Due 7/16*
- ✓ Note: They are in date not seniority order so that management can quickly know who is due next.

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

- ✓ An example for the “Process Safety Info (PSI)” requirement:
 - *Materials of construction, On letter from APCCO in file cabinet labeled PSM INFO*
 - *Piping and instrument diagrams (P&ID’s), P&ID in Planner Schedulers office in filing cabinet drawer Refrigeration, Equipment, and PMs*
 - *Electrical classification, On letter from APCCO in file cabinet labeled PSM INFO*
 - *Relief system design and design basis, PRV design in file cabinet labeled PSM INFO*
 - *Ventilation system design, Ventilation design in file cabinet labeled PSM INFO*
 - *Design codes and standards employed, On letter from APCCO in file cabinet labeled PSM INFO*
- ✓ **Consider having your plants scan and save their PSI info electronically to avoid not being able to locate it the future.**

How To Help Avoid *“The Costs and Risks of Non-Compliance”*

- ✓ Consider also modifying the CalARP Checklist “Findings Comment” section to include documented *“Guidance To Help Assure Compliance With RMP / CalARP /PSM Requirements”* **to help your plants be even more prepared when inspected.**
 - *An example for the “Offsite Consequence Analysis (OCA) Parameters” requirement question:*
 - Agencies will typically refer to previously submitted Data Elements Sections 2 & 3.
 - **Most plants have consultants or corporate develop this info and they have no idea at the plant where to locate the OCA info and/or how to answer agency OCA questions.**

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

✓ “Guidance To Help Assure Compliance With RMP / CalARP / PSM Requirements”

– *An example for one of the “Process Hazard Analysis” requirement questions: Is their documentation to show that PHA recommendations have been addressed and resolved in a timely manner?*

- **Have you met the date when all previous PHA recommendations will be completed by? This date was submitted in CalARP & RMP Data Elements, Section 7.4.c.**
- Review your PHA response table(s) and did you identify What, Who, and When recommendations were or will be completed?
This should also be verified through your documented periodic PSM/RMP Team (recommend quarterly) Status Checklist reviews including the ALL date.

How To Help Avoid “*The Costs and Risks of Non-Compliance*”

✓ “Guidance To Help Assure Compliance With RMP / CalARP / PSM Requirements”

– *An example for one of the “Compliance Audits” requirement questions: Is their documentation to show that audit recommendations have been addressed and resolved in a timely manner?*

- **Have you met the date when all previous Compliance Audit recommendations will be completed by? This date was submitted in CalARP & RMP Data Elements, Section 7.10.b.**
- Review your Compliance Audit responses and did you identify What, Who, and When recommendations were or will be completed? **This should also be verified through your documented periodic PSM/RMP Team (recommend quarterly) Status Checklist reviews including the ALL date.**

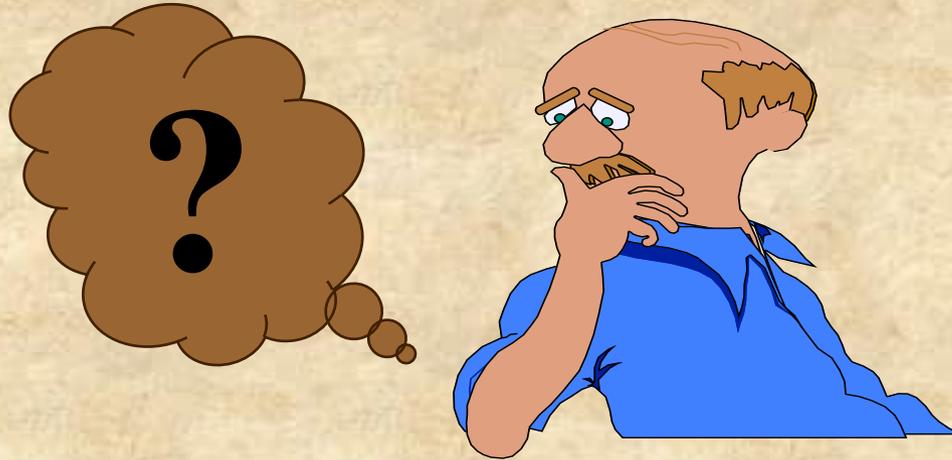
How To Help Avoid “*The Costs and Risks of Non-Compliance*”

- ✓ Remember, it’s managements choice: FORCED and very costly or Voluntary Compliance; **Remain committed daily!**
- ✓ Remember, being PROACTIVE rather than reactive will help you avoid most releases, exposures, bad press, citations, and fines! **Management needs to assure that they continue to proactively conduct and accurately document their periodic RMP/PSM Team (recommend quarterly) compliance status reviews.**
- ✓ Remember, if you let your RMP / PSM programs just sit on a shelf and collect dust you will be in for a rude and costly awaking when your facility is inspected by any of the regulatory agencies. **Management must choose to be “PROACTIVE” and committed to compliance!**

New Presidential Executive Order 8/1/13 – Improving Chemical Facility Safety and Security

- ✓ **Sec. 6. Policy, Regulation, and Standards Modernization.** ...Develop options for improved chemical facility safety and security that identifies improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations;
 - (c) ...**Secretary of Labor shall** review the chemical hazards covered by the Risk Management Program (RMP) and the Process Safety Management Standard (PSM) and **determine if the RMP or PSM can and should be expanded to address additional regulated substances and types of hazards**... to expand, implement, and enforce the RMP and PSM in a manner that addresses the additional regulated substances and types of hazards. **NOTICE: the words CAN and SHOULD BE!**
 - (d) ...“Homeland Security shall identify a list of chemicals, including poisons and reactive substances, that should be considered for addition to the CFATS Chemicals of Interest list.”
- ✓ **FYI Various Sections of the new Presidential Executive Order will likely be the springboard for new EPA RMP / OSHA PSM and other regulations related to chemicals used and stored at facilities.**

QUESTIONS



*If you have any questions
please let me know with an email.*

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EPA RMP & GDC Enforcement

- ✓ ***“EPA” Judicial actions can be civil and criminal in nature.***
 - Civil judicial enforcement with penalties up to \$37,500 per day for each violation.
 - Criminal penalties with up to \$37,500 per day for each violation.
 - Criminal action possible with penalties of up to \$37,500 per day, 3-years in prison, or both
 - In addition to the authority to bring administrative and judicial actions against violators, the Agency may issue orders under CAA §112(r)(9) and CAA §303 when there is an imminent and substantial threat of an actual or potential release.
 - Citizen suits.
- ✓ ***Note: The GDC applies to "owners and operators of stationary sources producing, processing, handling or storing any extremely hazardous substances" and requires you to comply with all of the actual RMP requirements.***

CalARP Enforcement

✓ *CalARP Penalties:*

- \$2,000/day for violation of the CalARP program.
- \$25,000/day for knowingly violating the CalARP program.
- After reasonable notice of the violation by the AA, the SS owner/operator faces misdemeanor or imprisonment in County jail for one year if violation resulted in, or significantly contributed to, an emergency, including fire.

OSHA/PSM Enforcement

✓ ***“OSHA” Judicial actions can be civil and criminal in nature.***

- Penalties for serious violations up to \$25,000 per citation;
- Penalties for willful violations up to \$250,000 per citation;
- Employers that fail to abate a violation will face a penalty of up to \$15,000 per day or criminal prosecution;
- Criminal enforcement in cases where a willful violation causes death or serious injury of an employee
 - *misdemeanor with up to one year incarceration and a fine of up to \$100,000*
 - *felony with up to 3 years imprisonment and a fine up to \$250,000 and a \$2 million fine to the company*
- Citizen suits.