



EPA Region 10 CAA 112(r) Update

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Latest News on the Accidental Release Prevention Requirements of the Clean Air Act

INSIDE

RMP List Rule Change Effective January 6, 1998 1
RMP & Small Business 1
*RMP*Submit and RMP*Info Fact Sheet Available* 1
General Duty Clause Q & A's -- Everyone's Covered 1
RMP Course Reminder 2

RMP List Rule Change Effective January 6, 1998

The Environmental Protection Agency (EPA) has modified the rule listing regulated substances and threshold quantities under section 112(r) of the Clean Air Act. EPA is deleting the category of Division 1.1 explosives (as listed by DOT) from the list of regulated substances. Regulated flammable substances in gasoline used as fuel and in naturally occurring hydrocarbon mixtures prior to initial processing are exempted from threshold quantity determinations, and the provision for threshold determination of flammable substances in a mixture is clarified. The definition of stationary source is modified to clarify the exemption of transportation and storage incident to transportation and to clarify that naturally occurring hydrocarbon reservoirs are not stationary sources or parts of stationary sources. In addition, EPA is clarifying that the Chemical Accident Prevention Provisions do not apply to sources located on the Outer Continental Shelf. EPA believes these changes will better focus accident prevention activities on stationary sources with high hazard operations and reduce duplication with other similar requirements.

DATES: This rule is effective January 6, 1998. More details are available at <http://www.epa.gov/fedrgstr/EPA-AIR/1998/January/Day-06/a267.htm>.

RMP & Small Business

EPA has developed a brochure that introduces small businesses to RMP requirements. The brochure answers such questions as:

- What is the Risk Management Program all about and why might I be covered?
- Why is the Risk Management Program important to me?
- When do I need to comply and how do I do it?
- Where can I get help?

This brochure is written in very understandable terms. A copy can be obtained at <http://www.epa.gov/swercepp/pubs/article.html> or from EPA's Hotline at 1-800-424-9346.

RMP*Submit and RMP*Info Fact Sheet Available

EPA has also developed a fact sheet on the RMP*Submit and RMP*Info systems. RMP*Submit will be used by covered sources to submit their risk management information to EPA. RMP*Info, an internet-based database, will be used by the public and local agencies to retrieve the information for their own purposes. The fact sheet is available from the EPA Hotline or <http://www.epa.gov/swercepp/whatnew.html>

General Duty Clause Q & A's -- Everyone's Covered

Regardless of whether a stationary source must comply with the Accidental Release Prevention Requirements (RMP Rule), it is subject to CAA 112(r)(1) or the General Duty Clause if it uses a hazardous substance in any amount.

The General Duty Clause reads as follows:
 SEC. 112. HAZARDOUS AIR POLLUTANTS...
 (r) Prevention of Accidental Releases.-

(1) Purpose and general duty.-It shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same

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EPA Region 10, WA Ops Office

The Update is a bimonthly newsletter on issues relating to the Accidental Release Prevention Requirements of the Clean Air Act.

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manner and to the same extent as section 654, title 29 of the United States Code, to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. For purposes of this paragraph, the provisions of section 304 shall not be available to any person or otherwise be construed to be applicable to this paragraph. Nothing in this section shall be interpreted, construed, implied or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person which may result from accidental releases of such substances.

Question: What is the general duty clause under CAA §112(r)(1)?

Answer: The CAA general duty clause directs owners and operators of stationary sources to identify hazards that may result from accidental releases, to design and maintain a safe facility, and to minimize the consequences of releases when they occur.

(CAA Q&A Database, October 1996)

Question: For CAA section 112(r)(1), General Duty, what are the chemicals that are covered?

Answer: There is no specific list of substances which subject a stationary source owner or operator to the general duty provisions. The general duty provisions apply to owners and operators of all stationary sources which have any " *extremely hazardous substances*". Extremely hazardous substances are not limited to the list of regulated substances listed under section 112(r), nor the extremely hazardous substances under EPCRA §302 (40 CFR Part 355, Appendices A and B).

Although there is no definition for extremely hazardous, the Senate Report on the Clean Air Act provides criteria EPA may use to determine if a substance is extremely hazardous. The report expressed the intent that the term "extremely hazardous substance" would include any agent "which may or may not be listed or otherwise identified by any Government agency which may as the result of short-term exposures associated with releases to the air cause death, injury or property damage due to its toxicity, reactivity, flammability, volatility, or corrosivity" (Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Senate Report No. 228, 101st Congress, 1st Session 211 (1989) - "Senate Report").

As the Senate makes clear, "the release of any substance which causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or which causes substantial property damage by blast, fire, corrosion or other

reaction would create a presumption that such substance is extremely hazardous." Senate Report at 211. Revisions to the list of regulated substances under CAA 112(r) do not affect the applicability of the general duty provisions.

(CAA Q&A Database, May 1997)

Question: Does the exemption at 40 CFR 68.125 for "ammonia used as an agricultural nutrient, when held by farmers" apply to the CAA Section 112(r)(1) general duty clause?

Answer: No. The exemption for ammonia held by farmers for use as fertilizer applies only to the provisions of the risk management program regulations at 40 CFR Part 68. The general duty requirement is statutory rather than regulatory and is, therefore, not subject to the regulatory exemption at 40 CFR 68.125.

(CAA Q&A Database, July 1997)

RMP Course Reminder

The one-day Risk Management Programs course covers the following:

- Risk management programs regulations
- Hazard analysis techniques using EPA's RMP Offsite Consequence Analysis Guidance
- Release prevention and emergency response activities
- Risk management plan (RMP) data elements

This course is intended for Federal, State and local personnel, government facilities personnel (ie. water treatment plant employees, etc.), SERC and LEPC members, and local emergency management and response personnel and covered industries.

Register early or the courses will be canceled.

April 20	Tri-Cities area, WA
April 21	Spokane, WA
April 23	Juneau, AK
May 4	Anchorage, AK
May 6	Olympia, WA
May 8	Portland, OR