



EPA Region 10 CAA 112(r) Update

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

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List Rule Change for Hydrochloric Acid

The Environmental Protection Agency (EPA) took final action to modify the list of regulated substances and threshold quantities authorized by section 112(r) of the Clean Air Act. The final rule on HCl solutions (**under the Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention**) was published on **8/25/97; 62 FR 45130**. The rule vacated the listing and related threshold for hydrochloric acid solutions with less than 37% concentrations of hydrogen chloride. EPA is vacating the listing and related threshold for hydrochloric acid solutions with less than 37% concentrations of hydrogen chloride. The current listing and threshold for all other regulated substances, including hydrochloric acid solutions with 37% or greater concentrations and the listing and threshold for anhydrous hydrogen chloride, are unaffected by the rulemaking. The action implements, in part, a settlement agreement between EPA and the General Electric Company (GE) to resolve GE's petition for review of the rulemaking listing regulated substances and establishing thresholds under the accidental release prevention regulations.

One-Day RMP Course Being Offered

The Environmental Response Training group has developed a U.S. EPA approved one day Risk Management Programs training course.

The course was developed with CEppo Headquarters and Regional staff review and approval. It is administered and taught through the Environmental Response Training Program (ERTP) which covers more than twenty training courses, including the Chemical Safety Audits (CSA) course.

ERTP is managed by the U.S. EPA Environmental Response Team and staffed by Halliburton NUS.

The Risk Management Programs course covers the following:

- Risk management programs regulations - including the proposed modifications and the latest answers to the Frequently Asked Questions
- Hazard analysis techniques using the EPA RMP Offsite Consequence Analysis Guidance
- Release prevention and emergency response - including passive and active prevention techniques and emergency response integrated contingency plans
- Risk management plan (RMP) data elements - including a case study of an actual RMP made available by Region 9.

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

Enforcement personnel and users can use the course to see how to review and verify RMPs and see how to use them to help develop and refine their state and local emergency management plans. Government facilities personnel will see how to develop RMPs to meet EPA requirements.

Since students may need review or development skills (or both), they will be shown how to determine program applicability, how to determine program levels, how to develop and review hazard assessments (without using computers or

EPA Region 10 CAA 112(r) Update

EPA Region 10, WA Ops Office

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

To automatically receive a copy via the post or E-mail, send a message to hoff.melanie@epamail.epa.gov v or call Melanie Hoff at 360-753-9477

computer-based air release models), and how to create, review and verify risk management plans.

The course is provided free of charge to Federal, State and local governmental personnel (including SERC and LEPC members). Private industry personnel are allowed to attend, but, only on a space available basis. Space for private industry personnel is sometimes available, however, historically, they have been less than 5% of our attendees. Private industry attendees will be charged a fee of \$ 125.00 for the course. This fee is paid directly to the EPA.

The Risk Management Programs training course is now ready for delivery. ERTTP normally delivers its courses through EPA Regional Training Coordinators in each EPA Region. The CSA course is delivered once in each region per year, through these coordinators with the aid of regional CEPP and CSA staff.

Courses are now being scheduled in EPA Region 10. If you are interested in attending a course or scheduling one in your area, call Melanie Hoff (see sidebar). To date, courses are being scheduled for April 23, 1998 in Juneau, AK and May 8, 1998 in Portland, OR. Course deliveries in each EPA Region are limited. Contact Melanie soon to indicate your interest and help get the courses effectively scheduled in EPA Region 10.

Letter to LEPC Listserv from Jim Makris, Director, CEPP, EPA

In response to the recent E-mails on the roles of LEPCs and the risk management program, EPA would like to comment. We appreciate all those whose comments brought this issue to our attention.

EPA believes that chemical hazards are primarily a local concern. When a chemical is accidentally released, it is facility workers, local firefighters and other responders, and citizens living nearby whose lives and health are potentially at risk. Of course, the other side of this coin is that it is workers and citizens who benefit economically from having the facility located in their community. The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA, also known as SARA Title III) set up local emergency planning committees (LEPCs) to deal with emergency planning and provide information about chemical hazards in the community. EPCRA required that LEPCs have a broad-based membership (including, at a minimum, representatives from elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and facility owners and

operators). LEPCs can (and should) include representation from local EMAs. One task for the LEPC is to develop a comprehensive emergency response plan. (A few States require LEPCs to develop a contingency plan for each facility in the planning district; this goes beyond, without replacing, the EPCRA requirement for one comprehensive community plan.) EPA has consistently noted the advantages associated with such a broad-based LEPC membership: all people involved in understanding, preventing, and responding to chemical releases should be involved in developing a plan.

In addition to this planning requirement, EPCRA also gave LEPCs community right-to-know responsibilities. Specifically, LEPCs are to receive information (MSDSs, a list of MSDSs, and Tier I or II inventory forms) about OSHA hazardous chemicals in the community. There are several hundred thousand OSHA hazardous chemicals. LEPCs are to designate a coordinator for information and set up procedures for responding to public requests for information about chemical hazards in the community. Many LEPCs have developed the capability to manage information electronically. Finally, the plans prepared by LEPCs designate a community emergency coordinator who is to be notified when accidental releases occur in the community.

EPA recognizes the great variety among LEPCs throughout the country. Some are more active, some less active. Some have more members than others. In many cases, it is the energy and commitment of only one person that makes an LEPC effective. Granted this variety, EPA notes that it is not accurate to say that the LEPCs* only requirement under EPCRA is to prepare a plan for specific facilities.

EPA believes that information available in risk management plans (RMPs) prepared under the accident prevention provisions of Clean Air Act §112(r) will prove helpful to LEPCs and other agencies (e.g., EMAs) at the local level. In fact, the primary purpose of CAA §112(r) is to prevent accidental chemical releases and reduce their severity. CAA goes beyond the planning for responses that was emphasized in EPCRA. The best way to minimize threats to human health and the environment from accidental chemical releases is to prevent releases from occurring. RMPs will include a description of potential offsite consequences related to a release under a worst-case scenario and alternate scenarios for the covered chemical(s) at a facility. LEPCs and other local agencies will also find in RMPs a description of accidental releases during the previous five years. And RMPs will include a summary of the response program at a facility, both internal preparations and existing

agreements with LEPCs and other interested groups in the community. This information about hazards assessment and the response program should prove helpful to local officials, planners, and responders, as they try to understand chemical hazards and develop emergency plans. The RMP also describes the accident prevention program at a facility.

Recognizing that CAA §112(r) and its regulations do not impose any requirements on LEPCs and other local government organizations, EPA nevertheless is convinced that LEPCs and local citizens will find this accident prevention information helpful in their efforts to protect human health and safety. It will ensure that LEPCs have the most current data on risk in the community and will keep the planning for response and risk reduction relevant. It will help to show cooperation between government and industry and may overcome attitudes of "gotcha" and encourage attitudes of "we are all in this together." It may also enhance the SERC/LEPC structure. EPA will continue to do what it can to ensure that LEPCs, EMAs, CAPs, and other similar local organizations know about RMPs and their potential usefulness at the local level, and to make specific RMPs available to LEPCs and other similar local organizations.

EPA would like to work with local EMAs and other State and local agencies on RMP implementation. We welcome your suggestions on how to build a stronger we partnership.

James (Jim) L. Makris, Director
 Chemical Emergency Preparedness and Prevention Office
 Office of Solid Waste and Emergency Response
 U.S. Environmental Protection Agency
 Washington, DC

steps facilities are taking to prevent accidental chemical releases. I urge you to work with your LEPCs to ensure that they engage facilities in discussions about accident prevention. In a few years, thanks to the steps you and LEPCs are about to take with respect to accident prevention, our citizens will gradually become familiar with, and expect to see practiced, some fundamental steps that industry and local officials can take to prevent accidental releases.

In September 1996, we established the Accident Prevention Subcommittee, a 12-member advisory committee specifically focused on CAA 112(r) issues. In turn, the Accident Prevention Subcommittee created the Electronic Submission Workgroup to make recommendations to EPA on how RMPs should be submitted, and how RMPs should be made available to all stakeholders. In June, the Electronic Submission Workgroup completed its work with a Final Recommendations Report. The report recommends that RMPs be submitted electronically (using a PC-based software program, named RMP*Submit) and will be made electronically available to States and local communities, and to all members of the public (using an Internet-based system named RMP*Info). Small businesses without access to computers can get an "electronic waiver" to submit their RMP in paper. We thank the six States who participated on the Electronic Submission Workgroup (California, Delaware, Florida, Louisiana, New Jersey, and Texas). We will continue to work with all of you to ensure that RMP*Info is useful to you and your LEPCs.

At the NGA SERC conference we distributed draft implementation guidance for CAA 112(r) and invited comments from all the States. The Accident Prevention Subcommittee has also established an RMP Implementation Workgroup to provide stakeholder advice on a variety of topics (e.g., implementation guidance for States, LEPCs, and industry; training; audit protocol; outreach; emergency planning; and model RMP guidances). If you are interested in electronically receiving regular updates on the work of the RMP Implementation Workgroup, send an e-mail to shanahan.karen@epamail.epa.gov requesting to be added to the e-mail list for the Accident Prevention Subcommittee and its workgroups. Please include your name, address and phone number.

Finally, having reported on what we at CEPPPO have been doing with respect to RMP implementation, let me ask for your help in making the RMP program effective in your State. We all know that chemicals pose a threat to local people and that the costs associated with chemical accidents (health and environmental costs, as well as the costs of responding during an accident) are born at the local

For More Information

Contact the Emergency Planning and Community Right-to-Know Hotline at (800)424-9346 or (703)412-9810.

Visit the 112(r) CEPPPO Home Page at www.epa.gov/swercepp/acc-pre.html

Contact your EPA Region 10 representative, Melanie Hoff, at (360)753-9477 or hoff.melanie@epamail.epa.gov

Excerpt from EPA's CEPP Annual SERC Letter

Chemical Accident Prevention -- Risk Management Programs -- We published the final risk management program regulation in June 1996. Facilities covered by the regulation must submit risk management plans (RMPs) no later than June 1999. These RMPs will contain much information that will be useful to you and the LEPCs in your State. For example, the RMPs include a description of off-site consequences associated with releases under scenarios using worst case assumptions and alternate scenarios. This information will complement the EPCRA information LEPCs have been using to develop community plans. RMPs also will describe facility emergency response programs, more information that LEPCs can use to improve local preparedness. And the RMPs will describe the

level. People tend to hold local and State officials responsible when something goes wrong. For these reasons, I believe that activities to prevent chemical accidents also are best accomplished at the local and State levels. We are prepared to provide training, guidance, and technical assistance to you. We have recommended close to \$1.5 million during the current fiscal year in grants for States to undertake activities related to implementing the RMP program.

We do not believe in a "one size fits all" approach to RMP implementation. We at EPA will work with you as you develop a program that meets your needs and protects your citizens.

I am currently aware of some States that are passing their own accident prevention legislation, others that will initially implement an RMP program for some industry sectors within the State while EPA implements the program for the remaining sectors, and others that will undertake some implementation activities while EPA undertakes complementary activities. I also am aware that some local governments plan to seek delegation for their own RMP program, regardless of what the State does.

RMP implementation at the local and State levels complements EPCRA implementation. The State agency that will implement the RMP program should and indeed may already be a member of the SERC. If not, I urge that you take whatever steps are necessary to include that agency on the SERC.

Changes to the RMP Universe -- In April 1996 we proposed to modify the list of regulated substances covered under the RMP regulation. Specifically, we proposed to remove Division 1.1 explosives from the list. This proposed change results from a settlement with the Institute of

Makers of Explosives (IME). IME member companies are already regulated by the Bureau of Alcohol, Tobacco and Firearms (ATF) and have agreed to post "Danger" signs at normal access routes, and to immediately notify LEPCs and other local authorities of the type, quantity, and location of Division 1.1 commercial explosives at any new temporary storage or manufacturing job sites. In addition, for new or existing Division 1.1 commercial explosives storage or manufacturing locations (excluding temporary sites), the member companies will notify LEPCs and other local authorities of the type, quantity, and location of the explosives on site, prepare emergency response plans, provide these plans to the local emergency responders, and respond to reasonable requests for information from said authorities. We believe making this additional information about explosives available to emergency planners and responders will effectively close a gap in available right-to-know information, while allowing existing laws and regulations to prevail. The final action on this proposal is to be published by December of this year.

Jim Makris, Director, Chemical Emergency Preparedness and Prevention Office

Status of RMP*Submit and RMP*Info

Decision on format for graphics for RMP Submission: GIF and JPEG. Graphics will be accepted (for the January 1999 version) in GIF and JPEG. We are requiring that graphics be sent in these two formats for several reasons: 1) GIF and JPEG are Internet standard graphics formats; 2) there are free utilities available to create files in GIF and JPEG; 3) it will be easier for users of RMP*Info to only have to work with two standard graphics formats rather than have to use multiple viewers to see the graphics files; and 4) to avoid doing any file conversions because industry indicated during the Electronic Submission Workgroup process that they did not want EPA doing any conversion of the data they submit.

Press Release: OSHA/EPA Accident Investigation

A report that details the efforts underway between the Environmental Protection Agency and the Occupational Safety and Health Administration to work together on chemical accident investigations is available from EPA's Chemical Emergency Preparedness and Prevention Office (CEPPO). EPA and OSHA have developed

a joint program to investigate major chemical accidents and releases to determine probable root causes and contributing factors. Each joint investigation of major accidents generally results in a public report that conveys the joint investigation team's findings, conclusions, and recommendations to improve chemical safety and prevent future accidents. EPA Administrator Carol M. Browner and Secretary of Labor Alexis M. Herman have sent the report to Congress in support of the joint agency investigation process.

Propane & Gasoline Q & A's

Question: Are propane and lead substances which will subject a stationary source to CAA §112(r)?

Answer: Lead is not a regulated substance. Propane is a regulated flammable substance with a 10,000-pound threshold and is therefore potentially subject to CAA §112(r).

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(CAA Q&A Database, August 1996)

Question: According to the definition of "process" at 40 CFR §68.3, any group of vessels that are interconnected is considered to be a single process. If a stationary source has two interconnected vessels and one contains 6,000 pounds of butane while the other contains 6,000 pounds of propane, is this a covered process under 40 CFR Part 68?

Answer: No. Although the two interconnected vessels are considered a single process, in order for that process to be subject to the risk management program regulations it must contain more than a threshold quantity of a regulated substance (40 CFR §68.10(a)). The threshold quantity for both butane and propane (and all other regulated flammable substances) is 10,000 pounds (40 CFR §68.130). The amounts of different regulated substances present in a single process need not be aggregated to determine whether a threshold is exceeded. If, at any time, more than 10,000 pounds of either butane or propane is present in a process, that process is covered by the regulations at 40 CFR Part 68. Although this process as described is not subject to part 68, it is subject to Section 112(r)(1), the general duty clause (See questions under General Duty Clause).

If butane and propane are present in a mixture in the process, then the threshold quantity must be calculated differently. Because a mixture of propane and butane would meet the NFPA 4 flammability criteria, the entire weight of the mixture needs to be treated as the regulated substance and added up to account for the threshold quantity. If there are additional vessels in the process that contain pure butane and/or propane, the weight of the mixture should be added to both the weight of the remaining butane and the weight of the remaining propane to determine whether either the threshold for propane or butane has been exceeded (40 CFR §68.115(b)(2)). For example, if 1,000 pounds of the 6,000 pounds of propane are mixed with the 6,000 pounds of butane to make a 7,000 pound mixture, then that 7,000 pound mixture would be treated as the regulated substance (both butane and propane) for threshold calculations. The 7,000 pound mixture would have to be added to the remaining 5,000 pounds of pure butane and the threshold for butane would be exceeded.

(CAA Q&A Database, May 1997)

Question: Propane is listed as a regulated flammable substance (40 CFR §68.130). If a process contains propane which is used exclusively as a fuel, is that process subject to the risk management program requirements of 40 CFR Part 68, or is there a fuel use exemption similar to that provided by OSHA?

Answer: There is no exemption for regulated

flammable substances used as fuel. If a process at a stationary source contains more than a threshold amount of propane or any other regulated substance, that process is subject to the risk management program regulations. In the proposed rule to establish the list of regulated substances (58 FR 5102, 5120; January 19, 1993), EPA proposed an exemption from threshold determination for flammable substances used solely for facility consumption as fuel. In a subsequent supplemental notice (59 FR 4500; January 31, 1994), EPA requested comment on whether flammable substances, when used as a fuel, posed a lesser intrinsic hazard than the same substances handled otherwise. The Agency received no data justifying a different level of hazard for flammables used as fuel. Additionally, the Agency has considerable accident data for propane that illustrates its potential to affect nearby offsite populations (61 FR 31702). The Agency published its final position for not having such an exemption as part of the RMP final rule on June 20, 1996. EPA is currently developing a model risk management program to assist propane retailers and users in compliance with the Risk Management Program Rule.

(CAA Q&A Database, September 6, 1996)

Question: The preamble to the final Risk Management Program Rule (61 FR 31668; June 20, 1996) states on page 31702 that EPA "recognizes that the full PSM standard is not appropriate for propane retailers," and "has assigned propane retailers and users to Program 2." Will processes containing propane always be subject to Program 2 requirements?

Answer: No. A process containing propane may be subject to the Program 1 requirements if that process meets the Program 1 eligibility criteria, listed at 40 CFR §68.10(b). The preamble to the Risk Management Program Rule (61 FR 31668, 31676) states that "all retailers are in Program 2, unless they can meet Program 1 criteria." Propane retailers generally will not have any Program 3 processes because Program 3 requirements are only applicable to processes in SIC codes 2611, 2812, 2819, 2821, 2865, 2869, 2873, 2879, or 2911 or processes covered by OSHA's PSM standard (40 CFR §68.10(d)). Retailers are specifically exempted from OSHA's PSM (61 FR 31676; June 20, 1996).

(CAA Q&A Database, September 6, 1996)

Question: Are there any pending changes to the January 31, 1994, List Rule?

Answer: Yes. In the April 15, 1996, Federal Register (61 FR 16598), EPA proposed several amendments to the list rule. The proposed amendments include deleting the entire category of Division 1.1 explosives from the list of regulated substances, clarifying threshold determinations for regulated flammable substances in a mixture,

exempting listed flammable substances in gasoline used as a fuel and in naturally occurring hydrocarbon mixtures from threshold determination, modifying the definition of stationary source to clarify the transportation exemption and to clarify that naturally occurring hydrocarbon reservoirs are not stationary sources.

(CAA Q&A Database, October 1996)

Question: The proposed amendments to the List Rule (59 FR 4478; January 31, 1994) include exemptions for regulated substances in gasoline that is in distribution or related storage for use as fuel for internal combustion engines, and for regulated substances in naturally occurring hydrocarbon mixtures prior to processing (61 FR 16598, 16604; April 15, 1996). Would these proposed exemptions apply to regulated toxic substances as well as regulated flammable substances?

Answer: The proposed exemption from threshold determination for regulated substances in gasoline or in naturally occurring hydrocarbon mixtures is relevant only to regulated flammable substances. These exemptions have been proposed under 40 CFR §68.115 (b)(2), which specifically relates to "concentrations of a regulated flammable substance in a mixture." Any regulated toxic substance (i.e., hydrogen sulfide) which is present in gasoline or in naturally occurring hydrocarbon mixtures must be considered when determining whether a threshold amount of that substance is present in a process at a stationary source.

(CAA Q&A Database, September 6, 1996)

Question: Is gasoline exempt from the requirements of 40 CFR Part 68?

Answer: Gasoline, although not specifically listed as a regulated substance under 40 CFR §68.130, may contain one or more regulated flammable substances. On April 15, 1996 (61 FR 16598), EPA proposed to modify the List Rule such that a regulated flammable substance contained in gasoline to be used as fuel for internal combustion engines would not be counted toward the threshold quantity for that substance. According to the proposed amendment, for example, if a refinery had a quantity of butane in a storage vessel and had a separate quantity of gasoline (containing butane) to be used as fuel in an internal combustion engine, only the pure butane in the storage vessel would need to be evaluated to see if the 10,000-pound threshold was exceeded for that process, and the amount of butane in the gasoline could be discounted.

(CAA Q&A Database, January 1997)