



EPA Region 10 CAA 112(r) Update

Latest News on the Accidental Release Prevention Requirements of the CAA

Jan-Aug 2000

It has been a little more than a year since Section 112(r) of the Clean Air Act was implemented. Major changes in both the scope of the program and public access to facilities risk management plans have occurred and we feel that **it is appropriate at this time to revisit the Risk Management Program, its objectives, and where it is at in the implementation process.**

The concept of a Risk Management Program was brought about in response to accidental chemical releases in the early 1980's in Bhopal, India and in Institute, West Virginia. These incidents resulted in injuries and deaths offsite of the facility where the release occurred. In the mid-1980's the Emergency Planning and Community Right-to-Know Act was created and emphasized responding to chemical releases. Section 112(r) of the CAA (1990) emphasizes preventing chemical releases, and reducing the consequences where releases do happen.

The Risk Management Program has three major parts, 1) the General Duty Clause, 2) a list of hazardous chemicals and 3) requirements for facilities that are covered by the law.

The General Duty Clause makes owners and operators of facilities that have extremely hazardous substances responsible for ensuring that their chemicals are managed safely. It applies to any sta-

tionary source producing, processing, handling, or storing regulated substances or other extremely hazardous substances, whether or not EPA has listed those substances. There are no minimum amounts. Facilities that have these substances are responsible for 1) knowing the hazards posed by the chemicals and assessing the impacts of possible releases 2) following codes, standards and other business practices to ensure the facility is properly constructed and maintained, and that the chemical is managed safely, and 3) having a contingency planning process, which would involve community responders, if necessary, to aid in an adequate response in the event of an accident. Facilities have been required to comply with the General Duty Clause since November, 1990.

The list of hazardous chemicals includes approximately 140 toxic and flammable substances that pose the greatest risk to human health and the environment. The substances are relatively volatile and may easily be spread by a release to the atmosphere.

The basic requirements for covered facilities are 1) the facility is a stationary source; 2) it has more than a threshold quantity of a listed substance, and 3) the

regulated substance is in a single process. It should be noted that a single process could be anything from a true process (interconnected tanks and piping) to a group of co-located but unconnected 55-gallon drums.

Typical, covered facilities include:

- Cold Storage
- Agricultural retailers
- Oil refineries
- Pulp and paper mills
- Electric and gas facilities
- POTW, water treatment plants
- Chemical manufacturers

Chlorine and ammonia account for 50% of the 112(r) regulated chemicals found in facilities nationwide.

Region 10 RMPs			
State	Ammonia	Chlorine	Other Chemicals
AK	18	5	4
ID	60	13	6
OR	67	45	26
WA	169	57	32

Approximately 500 Risk Management Plans have been submitted in Region 10.

To comply with 112(r), **covered facilities must have submitted** their RMPs by June 21, 1999;

completed a hazard assessment (including a worst-case scenario and an alternative release scenario); documented a 5-year accident history; and described their prevention and emergency response programs.

Risk Management Plans (RMP) were the first regulatory documents to be submitted entirely by electronic means. The documents are posted on-line at <http://www.epa.gov/enviro>. The worst case and alternative scenarios (the Offsite Consequence Analysis or OCA data) are not available on-line (see the discussion of CSISSFRRRA which follows).

The EPA Region 10 enforcement program consists of three basic elements; 1) facilities failing to submit plans were targeted beginning June 21, 1999; 2) penalties are far lower for facilities that come forward (self disclose), and 3) beginning in 2001 EPA will be conducting more in-depth inspections, checking to see if facilities have correctly implemented their RMPs.

Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISSFRRRA)

On August 5, 1999, Congress passed the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (PL 106-40). This act; 1) exempted most flammable fuels (such as propane), when used as fuel; 2) restricted public access to the worst case and alternative case scenarios (OCA data), and 3) required facilities to hold public meetings by February 5, 2000. PL 106-40 also called for an assessment and regulations regarding pub-

lic access to OCA data by August 5, 2000.

Q: Exactly what materials are subject to the restriction?

A. The following materials are subject to restriction under CSISSFRRRA (PL 106-40): Sections 2 through 5 (concerning the off-site consequences of "worst case" and "alternative releases" of toxic and flammable substances) of the RMPs that facilities have submitted to EPA under 40 CFR part 68; The portions of EPA's electronic database created from those sections; and Any statewide or national ranking of identified facilities derived from those sections.

Flammable Fuels

Flammable fuels (e.g., propane) used as fuel or held for sale as fuel at a retail facility are removed from coverage by the RMP program. However, flammable fuels used as a feedstock or held for sale as fuel at a wholesale facility are still covered. A retail facility is a facility "at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program."

Q: If I no longer have to report my flammable fuel, am I still covered by the Clean Air Act General Duty Clause?

A. Yes. The law does not affect a source's standing in relation to the General Duty Clause. The General Duty Clause of CAA Section 112(r) requires facilities handling extremely hazardous substances, whether listed under Section 112(r) or not, to--among other things--design and maintain a safe facility.

Public Access to Offsite Consequence Analysis Data

Following instructions in PL 106-40 on August 4, 2000 the EPA and the Department of Justice (DOJ) issued regulations governing access to, and dissemination of, the potential off-site consequences of accidental chemical releases from industrial facilities (the OCA data). As required by the 1999 law, the federal government conducted assessments of both the increased risk of terrorist and other criminal activity that would result from posting OCA information on the Internet and the chemical safety benefits of allowing public access to the information. Based on the assessments, EPA and DOJ issued a rule that allows public access to OCA information in ways that are designed to minimize the likelihood of chemical accidents, the risk associated with Internet posting, and the likelihood of harm to public health and welfare.

The August 4, 2000 rule provides the public with access to paper copies of OCA information through at least 50 federal reading rooms distributed across the United States and its territories. It also provides Internet access to the OCA data elements that pose the least serious criminal risk. To help the members of the public learn about chemical hazards in their communities, the rule establishes a vulnerable zone indicator system. In addition, the rule authorizes and encourages state and local agencies involved in chemical emergency planning, prevention, or response to provide the public with read-only access to OCA information for local facilities.

The public may access OCA data via:

1. Federal reading rooms: any member of the public will be able to read, although not remove or mechanically reproduce, a paper copy of OCA information for up to 10 facilities per calendar month located anywhere in the country, without geographical restriction. In addition, any person will be able to view OCA information for facilities located in the jurisdiction of the LEPC where the person lives or works and for any additional facilities with a vulnerable zone extending into that LEPC's jurisdiction. In EPA Region 10 (AK, ID, OR & WA) the reading rooms will be located in Seattle, WA and Anchorage, AK. The Anchorage reading room will operate by appointment only.

Q: Can I take copies of the OCA information home?

A: No. You can read and take handwritten notes from the paper copy of OCA information provided to you in a reading room, but you may not remove or mechanically reproduce the paper copy.

Q: When will federal reading rooms be operational?

A: It is anticipated that the federal reading room access will be available by Dec. 31, 2000. Check the EPA website at www.epa.gov/ceppo for a list of reading room locations and contact information as they become available.

2. State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs), and related state and local government agencies may also provide the public with read-only access to OCA information for local facilities. LEPCs and local agencies are encouraged to allow any person to view

OCA information for facilities located in the LEPC's jurisdiction and for any facility with a vulnerable zone that extends into the LEPC's jurisdiction. SERCs and state agencies are encouraged to allow any person to view the OCA information that the LEPC where the person lives or works would be authorized to provide.

Q: What if the federal reading rooms are too far away? Can I view OCA information closer to home?

A: There are a variety of ways you can gain access to OCA information. For instance, your LEPC is allowed to provide you with read-only access to OCA information for sources located within the jurisdiction of your LEPC and for any other stationary sources that have a vulnerability zone that extends into your LEPC's jurisdiction. You can find contact information for your LEPC at <http://www.epa.gov/ceppo/lepclist.htm> or by calling the EPA hotline at (800) 424-9346. Other related local government agencies, including fire, police, planning departments, and others that are involved in chemical emergency planning, prevention, or response, also may be able to help you.

3. OCA data elements available to the public on the Internet.

By Dec. 31, 2000, RMP*Info, EPA's Internet-based system for providing public access to risk management plans (RMPs), will include the full text of RMPs except for the OCA data elements that might significantly assist someone in targeting a chemical facility. RMP*Info is available at www.epa.gov/ceppo/

4. The Vulnerable Zone Indicator System (VZIS) is an Internet-based system designed to un-

derstand better some of the aspects of the risk expressed by OCA information without disclosing the information itself. The indicator system will be available via electronic mail, a toll-free number, or a mail request for individuals who do not have Internet access. Individuals will be able to submit to the system a specific address (such as that of a home, school, or place of employment), and the system will inform them of whether that address might fall within any of the vulnerable zones reported by RMP facilities. The system will provide instructions on how to obtain the names of the facilities that potentially affect the address of interest.

Q: When will the vulnerable zone indicator system (VZIS) be operational?

A: The VZIS will be operational by Oct. 5, 2000. That will give EPA time to develop, test and make the software available.

5. Public Meetings: Facilities had to describe and discuss the "local implications of their RMPs" including a summary of their OCA data at a public meeting. The meeting had to be preceded by "reasonable public notice" and certification that the meeting was held had to be sent to the F.B.I. Facilities were strongly encouraged to work with their LEPCs and local first responders. A list of facilities who have notified FBI that they held a public meeting or posted a summary (where appropriate) to share information about their RMPs is available on the World Wide Web at: http://www.epa.gov/ceppo/oca_rels/pl106-40.html. This list contains information forwarded to EPA by the FBI and it is updated periodically.

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