

MEMORANDUM

November 16, 2012

To: Senator Frank R. Lautenberg
Attention: Brendan Bell

From: Dana A. Shea, Specialist in Science and Technology Policy, x7-6844

Subject: **RMP Facilities in the United States as of November 2012**

This memorandum responds to your request regarding facilities that submit risk management plans (RMPs) to the U.S. Environmental Protection Agency (EPA). You requested an analysis of RMP facilities within the United States by potentially affected population. You also requested an analysis of facilities required by regulation to resubmit their information to the EPA that had not done so.

Under the Clean Air Act, Section 112(r), the EPA established a program requiring facilities possessing greater than certain threshold quantities of 140 chemicals to provide risk management plans to the EPA.¹ As part of this reporting requirement, EPA requires facilities to determine the worst-case scenario release from a single chemical process, using EPA criteria and guidelines.² Facilities also must estimate the population potentially at risk from this worst-case scenario chemical release by calculating the population that resides within a circle surrounding the facility. The radius of this circle represents the distance the worst-case scenario chemical release might travel.³

The population potentially affected under an EPA worst-case scenario chemical release resides in a circle around the facility. In the event of an actual catastrophic chemical release, meteorological effects would determine the direction of the release and therefore those potentially affected. Furthermore, how such a release would affect those exposed would vary depending on many factors, such as the demographics of the population and the surrounding geography. In addition, worst-case scenarios do not take into account emergency response measures that facility operators or others might take to mitigate harm. Therefore, it is unlikely that this entire population would be affected by any single chemical release, even if it is a result of a worst-case accident.

Facilities may register and deregister from the RMP program as their chemical processes and the amounts of chemicals they store and use change. If a facility no longer possesses a regulated chemical above the

¹ The list of 140 chemicals, including 77 toxic and 63 flammable chemicals, and their threshold quantities is found at 40 CFR 68.130.

² The criteria and guidelines for determining the worst-case scenario release are found at 40 CFR 68.25. Some facilities have submitted information on multiple worst-case scenario releases.

³ This requirement is found at 40 CFR 68.30. The criteria for determining the distance a worst-case scenario release might travel are found at 40 CFR 68.22.

threshold quantity, EPA requires the facility to inform EPA and deregister from the program.⁴ The regulation requires facilities to review and update RMP plans filed with the EPA at least once every five years.⁵ For the purposes of this memorandum, facilities that have not reviewed and updated their RMP plans within five years of their submissions are called facilities with overdue updates. The deadline for initial submissions under the RMP program was June 21, 1999.⁶ The EPA maintains submitted information in the RMP*National Database.

In 1999, Congress passed the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISFRRRA).⁷ This act removes from RMP program coverage any flammable fuel used as fuel or held for sale as fuel by a retail facility. In implementing this act, the EPA allowed facilities that had previously filed under the RMP program the options of withdrawing from the program, which would delete facility information from the EPA database, or taking no further action, which would leave facility information in the EPA database as a voluntary submission.⁸ Facilities exempted under CSISFRRRA that voluntarily submitted information need not update these submissions.

The data available in the RMP*National Database are not sufficient to determine the actual scope of compliance or noncompliance with the RMP program. Some facilities may not have submitted an RMP plan even though EPA requires them to do so. These facilities would not be present in the RMP*National Database. Conversely, some out-of-date entries in the EPA database may be facilities exempted under CSISFRRRA. The RMP*National Database does not identify such facilities.⁹ Thus, the number of facilities identified in this memorandum as having overdue updates is likely not equal to the total number of facilities failing to comply with the RMP program.

At your request, CRS has searched the November 2012 update of the EPA RMP*National Database (with off-site consequence analysis (OCA) data) for facilities that have registered under the RMP program. Facilities that have deregistered from the RMP program were excluded. You requested that the facilities be classified by state according to the population potentially affected by a worst-case release, according to the EPA worst-case scenario criteria, using thresholds of 1,000 people, 10,000 people, 100,000 people, and 1,000,000 people. Additionally, you requested that facilities with overdue RMP updates be identified for each population category. Facilities with an RMP filing due to be updated by October 31, 2012, that had not been updated were considered overdue for the purposes of this analysis. These facilities include CSISFRRRA-exempted facilities as well as facilities that are covered by the regulation. All of the information in this memorandum is drawn from the EPA RMP*National Database (with off-site consequence analysis (OCA) data). This information is presented in **Table 1**.

Since facilities may register and deregister from the RMP program as chemical processes and amounts of chemicals stored and used change, the number of facilities listed in **Table 1** should be considered as illustrative of the current industry profile, rather than absolute.

⁴ This requirement is found at 40 CFR 68.190. Facilities must deregister from the program within six months.

⁵ This requirement is found at 40 CFR 68.36. Facilities not excluded by the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (P.L. 106-40) that do not review and update the RMP plan are not in compliance with the RMP regulation. They may be subject to enforcement actions by the EPA under the Clean Air Act, Section 113.

⁶ 61 *Federal Register* 31,668 (June 20, 1996).

⁷ P.L. 106-40.

⁸ See 65 *Federal Register* March 13, 2000, p. 13,247.

⁹ Personal communication with EPA staff, September 25, 2007.

Table I. Compliant, Update Overdue, and Total RMP Facilities in Each State, by Potentially Affected Population in EPA Defined “Worst Case” Scenarios (Parameters Designated by Requester)

State	0 - 999			1,000 - 9,999			10,000 - 99,999			100,000 - 999,999			1,000,000+		
	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total
AK	21	1	22	14	0	14	0	0	0	0	0	0	0	0	0
AL	80	0	80	91	1	92	32	0	32	9	0	9	0	0	0
AR	32	2	34	60	3	63	61	2	63	1	0	1	0	0	0
AS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AZ	28	1	29	49	0	49	32	0	32	2	0	2	2	0	2
CA	306	0	306	262	1	263	268	0	268	50	0	50	8	0	8
CO	112	0	112	49	1	50	30	0	30	0	0	0	1	0	1
CT	11	0	11	9	2	11	8	1	9	1	0	1	0	0	0
DC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
DE	6	1	7	13	0	13	3	0	3	2	0	2	1	0	1
FL	70	0	70	114	0	114	77	0	77	16	0	16	6	0	6
GA	109	4	113	120	2	122	40	2	42	6	0	6	0	0	0
GU	3	0	3	1	0	1	0	0	0	0	0	0	0	0	0
HI	6	0	6	9	0	9	2	0	2	0	0	0	0	0	0
IA	442	4	446	401	6	407	50	1	51	3	0	3	0	0	0
ID	26	0	26	21	0	21	16	0	16	0	0	0	0	0	0
IL	551	8	559	301	7	308	73	2	75	14	0	14	11	1	12
IN	193	5	198	174	2	176	76	0	76	7	0	7	3	0	3
KS	446	1	447	182	0	182	35	1	36	5	0	5	0	0	0
KY	74	1	75	82	2	84	36	1	37	13	0	13	0	0	0
LA	116	12	128	83	5	88	67	1	68	40	0	40	3	0	3
MA	20	3	23	24	3	27	20	2	22	1	0	1	0	0	0
MD	32	1	33	29	0	29	29	0	29	0	0	0	1	0	1
ME	12	2	14	9	3	12	5	0	5	1	0	1	0	0	0
MI	72	0	72	83	0	83	40	0	40	8	0	8	2	0	2
MN	167	9	176	211	5	216	46	4	50	5	0	5	2	0	2
MO	194	1	195	127	1	128	40	0	40	3	0	3	0	0	0
MS	49	2	51	60	5	65	32	1	33	2	0	2	0	0	0
MT	36	1	37	12	0	12	7	0	7	1	0	1	0	0	0
NC	110	6	116	94	1	95	36	2	38	5	0	5	0	0	0

State	0 - 999			1,000 - 9,999			10,000 - 99,999			100,000 - 999,999			1,000,000+		
	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total	Compliant	Update Overdue	Total
ND	236	0	236	69	0	69	14	0	14	0	0	0	0	0	0
NE	269	2	271	175	1	176	42	0	42	2	0	2	0	0	0
NH	6	0	6	5	0	5	1	0	1	1	0	1	0	0	0
NJ	40	0	40	15	0	15	11	0	11	5	0	5	5	0	5
NM	44	3	47	9	0	9	7	0	7	2	0	2	0	0	0
NV	33	0	33	6	0	6	6	0	6	1	0	1	2	0	2
NY	44	0	44	71	0	71	36	0	36	18	0	18	0	0	0
OH	128	12	140	166	8	174	81	2	83	11	1	12	4	0	4
OK	180	15	195	75	8	83	29	3	32	7	0	7	0	0	0
OR	41	0	41	39	0	39	30	0	30	5	0	5	0	0	0
PA	130	0	130	141	1	142	79	0	79	9	0	9	2	0	2
PR	5	0	5	33	0	33	40	0	40	1	0	1	0	0	0
RI	3	0	3	4	0	4	6	1	7	2	0	2	0	0	0
SC	66	1	67	85	1	86	17	0	17	8	0	8	0	0	0
SD	42	0	42	28	0	28	7	0	7	0	0	0	0	0	0
TN	61	5	66	71	2	73	40	2	42	17	0	17	1	0	1
TX	542	69	611	322	36	358	299	13	312	68	0	68	33	0	33
UT	48	0	48	24	0	24	14	0	14	4	0	4	2	0	2
VA	53	0	53	65	0	65	20	0	20	7	0	7	0	0	0
VI	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
VT	2	0	2	3	2	5	0	0	0	0	0	0	0	0	0
WA	131	0	131	89	1	90	35	0	35	9	0	9	0	0	0
WI	96	5	101	105	4	109	48	1	49	6	0	6	0	0	0
WV	34	0	34	21	0	21	16	0	16	6	0	6	0	0	0
WY	54	1	55	6	0	6	4	0	4	0	0	0	0	0	0
Total	5613	178	5791	4311	114	4425	2043	42	2085	384	1	385	89	1	90

Source: CRS analysis of the EPA RMP*National Database (with off-site consequence analysis (OCA) data), updated November 1, 2012.

Notes: Facilities due to update their RMP filing by October 31, 2012, that had not done so are categorized as “update overdue.” Some of those facilities may be exempted from regulation by CSISSFRA. In cases where facilities report multiple worst-case scenario releases, the worst-case scenario potentially affecting the most people has been considered. The column labeled State also includes American Samoa (AS), Guam (GU), Puerto Rico (PR), the U.S. Virgin Islands (VI), and the District of Columbia (DC).

You also requested that facilities with overdue RMP updates be classified by EPA region according to the population criteria described above. The EPA has ten regional offices, each responsible for several states and, in some cases, territories.¹⁰ This information is provided in **Table 2**.

Table 2. RMP Facilities with Overdue Updates in Each EPA Region, by Potentially Affected Population in EPA Defined “Worst Case” Scenarios (Parameters Designated by Requester)

EPA Region	0 - 999	1,000 - 9,999	10,000 - 99,999	100,000 - 999,999	1,000,000+	Total
1	5	10	4	0	0	19
2	0	0	0	0	0	0
3	2	1	0	0	0	3
4	19	14	8	0	0	41
5	39	26	9	1	1	76
6	101	52	19	0	0	172
7	8	8	2	0	0	18
8	2	1	0	0	0	3
9	1	1	0	0	0	2
10	1	1	0	0	0	2
Total	178	114	42	1	1	336

Source: CRS analysis of the EPA RMP*National Database (with off-site consequence analysis (OCA) data), updated November 1, 2012.

Notes: Facilities due to update their RMP filing by October 31, 2012, that had not done so were considered as “update overdue.” Some of those facilities may be exempted from regulation by CSISFRRA. In cases where facilities report multiple worst-case scenario releases, the worst-case scenario potentially affecting the most people has been considered.

Facilities might not review and update their filed RMP plans for several reasons: the facility is out of regulatory compliance; the facility is no longer in business; the facility has reduced the amount of reportable chemical to below threshold levels, but neglected to inform the EPA; or the facility falls under CSISFRRA and is no longer covered by the RMP requirement. Data provided by EPA are insufficient to distinguish these possibilities. Any user of these data should use caution when drawing further conclusions from this analysis.

If you have any further questions regarding this topic or questions regarding the information in this memorandum, please contact me at 7-6844.

¹⁰ For a description of the various EPA regions, including the states located in each region, see online at <http://www.epa.gov/epahome/locate2.htm>.