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**Memorandum**

March 4, 2008

**TO:** Honorable Edward Markey  
Attention: Michal Freedhoff

**FROM:** Dana A. Shea  
Specialist in Science and Technology Policy  
Resources, Science, and Industry Division

**SUBJECT:** RMP Facilities in the United States as of February 2008

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This memorandum responds to your request regarding facilities submitting 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 that were required by regulation to resubmit their information to the EPA but 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.<sup>1</sup> As part of this reporting requirement, facilities are required to determine the worst-case scenario release from a single chemical process, using EPA criteria and guidelines.<sup>2</sup> Facilities are also required to estimate the population potentially at risk from this worst-case scenario release by calculating the population that resides within a circle surrounding the facility, with the radius of the circle determined by the distance the worst-case scenario release might travel.<sup>3</sup>

Since the population potentially affected under an EPA worst-case scenario release is calculated in a circle around the facility, 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. 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

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

<sup>2</sup> 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.

<sup>3</sup> 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.

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demographics of the population and the surrounding geography and weather. In addition, worst-case scenarios do not take into account emergency response measures that operators of the facilities or others might take to mitigate harm.

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 threshold quantity, it is required to inform EPA and deregister from the program.<sup>4</sup> Facilities are required to review and update their RMP plans filed with the EPA at least once every five years.<sup>5</sup> For the purposes of this memorandum, facilities that have not reviewed and updated their RMP plan within five years of their submission will be termed facilities with overdue updates. The deadline for submissions under the RMP program was June 21, 1999.<sup>6</sup> EPA maintains this information in the RMP\*National Database.

In 1999, Congress passed the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (CSISSFRRRA).<sup>7</sup> This act removes from coverage by the RMP program any flammable fuel when 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 the information from the EPA database, or taking no further action, which would leave the information in the EPA database as a voluntary submission.<sup>8</sup> Facilities exempted under CSISSFRRRA that voluntarily submitted information are not required to update these submissions.

The data available in the RMP\*National Database is not sufficient to determine the full scope of actual compliance or noncompliance with the RMP program. Facilities that were required to, but did not, submit an RMP plan to the EPA would not be present in the RMP\*National Database, but would be out of compliance with the RMP program. As a result of EPA's implementation of CSISSFRRRA, some entries in the EPA database that have not been updated within the five year requirement are likely to be facilities falling under CSISSFRRRA that opted to take no action. These facilities are not identified as such in the RMP\*National Database.<sup>9</sup> A number of facilities became noncompliant in June 2004, five years after the program's inception. Some of these are likely to be CSISSFRRRA-exempted facilities. Thus, the number of facilities identified in this memorandum as having overdue updates is likely not equal to the total number of facilities not complying with the RMP program.

At your request, CRS has searched the February 2008 update of the EPA RMP\*National Database (with off-site consequence analysis (OCA) data) for facilities that have registered

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

<sup>5</sup> This requirement is found at 40 CFR 68.36. Facilities not excluded by the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act 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 EPA under the Clean Air Act, Section 113.

<sup>6</sup> 61 *Federal Register* 31,668 (June 20, 1996).

<sup>7</sup> P.L. 106-40.

<sup>8</sup> See 65 *Fed. Reg.* March 13, 2000, p. 13,247.

<sup>9</sup> Personal communication with EPA staff, September 25, 2007.

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 February 1, 2008, that had not been updated were considered overdue for the purposes of this analysis. These facilities include CSISSFRRA-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.

**Table 1. 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	17	0	17	11	0	11	0	0	0	0	0	0	0	0	0
AL	85	6	91	80	1	81	37	0	37	12	0	12	0	0	0
AR	47	5	52	73	1	74	54	2	56	2	0	2	0	0	0
AS	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
AZ	25	5	30	43	3	46	34	5	39	4	0	4	2	0	2
CA	310	28	338	294	5	299	272	10	282	50	1	51	11	0	11
CO	123	3	126	63	2	65	23	1	24	1	0	1	1	0	1
CT	8	0	8	20	0	20	7	0	7	1	0	1	0	0	0
DC	0	0	0	1	0	1	1	0	1	0	0	0	0	0	0
DE	10	0	10	13	0	13	4	0	4	2	0	2	1	0	1
FL	73	8	81	139	10	149	106	3	109	19	0	19	7	0	7
GA	127	12	139	135	5	140	47	1	48	7	0	7	1	0	1
GU	4	0	4	0	0	0	0	0	0	0	0	0	0	0	0
HI	5	0	5	10	0	10	2	0	2	0	0	0	0	0	0
IA	471	13	484	363	10	373	54	2	56	2	0	2	0	0	0
ID	29	0	29	22	0	22	16	0	16	0	0	0	0	0	0
IL	576	22	598	307	9	316	72	3	75	19	0	19	10	1	11
IN	216	19	235	153	6	159	64	5	69	12	0	12	3	0	3
KS	479	6	485	196	1	197	31	0	31	5	0	5	0	0	0
KY	82	2	84	75	2	77	38	0	38	15	0	15	0	0	0

## CRS-5

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
LA	119	15	134	94	7	101	61	0	61	43	1	44	2	0	2
MA	20	1	21	27	2	29	26	0	26	1	0	1	0	0	0
MD	35	0	35	27	1	28	36	0	36	6	0	6	2	0	2
ME	10	1	11	12	0	12	5	0	5	1	0	1	0	0	0
MI	81	6	87	85	9	94	39	4	43	10	1	11	5	0	5
MN	213	43	256	163	16	179	47	6	53	7	0	7	3	0	3
MO	186	16	202	140	2	142	37	1	38	6	0	6	1	0	1
MS	54	2	56	63	4	67	44	3	47	2	0	2	0	0	0
MT	44	6	50	18	0	18	7	0	7	1	0	1	0	0	0
NC	118	5	123	106	2	108	43	1	44	6	0	6	1	0	1
ND	249	12	261	71	4	75	10	0	10	0	0	0	0	0	0
NE	301	8	309	196	4	200	36	0	36	2	0	2	0	0	0
NH	6	0	6	4	1	5	1	0	1	0	0	0	1	0	1
NJ	40	3	43	19	0	19	15	0	15	7	0	7	5	0	5
NM	49	3	52	12	0	12	4	0	4	2	0	2	0	0	0
NV	26	2	28	7	0	7	5	0	5	2	0	2	1	0	1
NY	47	2	49	68	1	69	35	0	35	18	0	18	2	0	2
OH	130	12	142	174	7	181	85	2	87	17	1	18	7	0	7
OK	171	28	199	76	11	87	31	1	32	7	2	9	0	0	0
OR	49	0	49	42	0	42	26	0	26	3	0	3	0	0	0
PA	118	1	119	146	1	147	84	2	86	14	0	14	2	0	2
PR	8	3	11	41	10	51	44	1	45	1	0	1	0	0	0
RI	1	1	2	5	0	5	7	0	7	4	0	4	0	0	0

## CRS-6

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
SC	68	0	68	105	0	105	19	0	19	7	1	8	0	0	0
SD	55	2	57	28	1	29	5	0	5	0	0	0	0	0	0
TN	65	4	69	85	5	90	36	2	38	18	0	18	1	0	1
TX	494	75	569	380	40	420	287	16	303	68	0	68	28	0	28
UT	46	3	49	19	1	20	12	0	12	5	0	5	1	0	1
VA	62	0	62	63	0	63	21	1	22	8	0	8	0	0	0
VI	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
VT	2	0	2	4	1	5	0	0	0	0	0	0	0	0	0
WA	128	0	128	88	0	88	29	0	29	8	0	8	1	0	1
WI	90	24	114	105	11	116	51	2	53	6	0	6	0	0	0
WV	28	1	29	27	1	28	17	0	17	7	0	7	0	0	0
WY	52	4	56	10	0	10	3	0	3	0	0	0	0	0	0
<b>Total</b>	<b>5852</b>	<b>412</b>	<b>6264</b>	<b>4508</b>	<b>197</b>	<b>4705</b>	<b>2072</b>	<b>74</b>	<b>2146</b>	<b>438</b>	<b>7</b>	<b>445</b>	<b>99</b>	<b>1</b>	<b>100</b>

**Source:** CRS analysis of the EPA RMP\*National Database (with off-site consequence analysis (OCA) data), updated February 1, 2008.

**Note:** Facilities due to update their RMP filing by February 1, 2008, that had not done so are categorized as “update overdue.” Some of those facilities may be exempted from regulation by CSISSFRRRA. 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), 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. EPA has ten regional offices, each of which is responsible for several states and, in some cases, territories.<sup>10</sup> 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)**

<b>EPA Region</b>	<b>0 – 999</b>	<b>1,000 – 9,999</b>	<b>10,000 – 99,999</b>	<b>100,000 – 999,999</b>	<b>1,000,000 +</b>	<b>Total</b>
<b>1</b>	3	4	0	0	0	7
<b>2</b>	8	11	1	0	0	20
<b>3</b>	2	3	3	0	0	8
<b>4</b>	39	29	10	1	0	79
<b>5</b>	126	58	22	2	1	209
<b>6</b>	126	59	19	3	0	207
<b>7</b>	43	17	3	0	0	63
<b>8</b>	30	8	1	0	0	39
<b>9</b>	35	8	15	1	0	59
<b>10</b>	0	0	0	0	0	0
<b>Total</b>	412	197	74	7	1	691

**Source:** CRS analysis of the EPA RMP\*National Database (with off-site consequence analysis (OCA) data), updated February 1, 2008.

**Note:** Facilities due to update their RMP filing by February 1, 2008 that had not done so were considered as having an overdue update. Some of those facilities may be exempted from regulation by CSISSFRRRA. In cases where facilities report multiple worst-case scenario releases, the worst-case scenario potentially affecting the most people has been considered.

There are several reasons why facilities might not review and update their filed RMP plans: 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 CSISSFRRRA and is no longer covered by the RMP requirement. Any user of this data should take care 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.

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<sup>10</sup> 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>].