

# Flammable Fuels RMP Facility Exemption

## Background

Originally, the Clean Air Act 112(r) listed flammable fuels such as propane and LPG, butane and isobutane, and methane and CNG as regulated substances with a 10,000 lb threshold quantity. These fuels were subject to the Risk Management Plan (RMP) requirements. In the Spring of 1999, a judicial stay and an administrative stay relieved propane and other flammable fuel handlers from having to meet the June 21, 1999 RMP submission deadline. In August, Senate Bill S880, also known as the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, defined which flammable fuel handlers would be required to prepare and submit RMPs. One stay expired in December and the other was lifted in January, so flammable fuel handlers that use propane in a manufacturing process or non-retail sales were required to file RMPs as soon as the stay was lifted.

Flammable fuels used as fuel or held for sale as fuel at a retail facility were removed from being required to file a Risk Management Plan under the Clean Air Act 112(r) by Public Law 106-40. 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." Please see the excerpt from EPA's Frequently Asked Questions and the list of other Internet references on the reverse of this form for more information.

California's Accidental Release Prevention Program follows the federal guidelines for which flammable fuels require the submission of RMPs. To implement the CalARP program, the Imperial County CUPA is required to ascertain whether flammable fuel facilities meet the requirements of Public Law 106 to be exempt from filing a RMP. Please complete the following and return to the address above:

Facility Name: \_\_\_\_\_

Site Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Flammable Fuel: \_\_\_\_\_

Is the flammable fuel above used on this site exclusively as a fuel?: \_\_\_\_\_

Is the flammable fuel held on this site for sale as a fuel at a retail facility (as defined above)? \_\_\_\_\_

Percent of income obtained from direct sales to end users: \_\_\_\_\_

Percent of volume sold through a cylinder exchange program: \_\_\_\_\_

Has the quantity of flammable fuel in a process been reduced to below 10,000 lbs?: \_\_\_\_\_

Has the process involving flammable fuel been eliminated? \_\_\_\_\_

Based on the information you have about the RMP requirements and the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, is the above process involving flammable fuels exempt from filing a Risk Management Plan?: \_\_\_\_\_

Signature of Owner/Operator: \_\_\_\_\_

Date: \_\_\_\_\_

## Chemical Safety Information, Site Security and Fuels Regulatory Relief Act: Frequently Asked Questions (FAQ)

Do I have to submit an RMP for my facility if the only listed substances I have on-site are flammable fuels?

- It depends. If your facility uses the flammable substance as a fuel on site, or your facility is a retail facility that holds the flammable substance for sale as a fuel, you do not have to submit an RMP. However, if you hold regulated flammable substances that are not used as fuel and your facility does not meet the definition of a retail facility, then the flammable substances are still subject to the RMP program if you have more than a threshold amount in a process.

What qualifies as a retail facility?

- The law defines a retail facility as, "a stationary source 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".

Will flammable fuels be removed from the list of covered substances under Section 112(r) of the Clean Air Act?

- EPA will soon issue a rule conforming the list of covered substances to the new law. The rule will revise the list to exclude flammable substances that are used as a fuel or held for sale as a fuel at a retail facility. (Note that it is not necessary for EPA to complete this rule for flammable fuels to be removed from the RMP program. The effect of the new law was to remove fuels from the program.) Flammable substances used for non-fuel purposes (e.g., as a feedstock in chemical manufacturing operations), or held for sale by a nonretail facility, will continue to be covered.

How does the law affect the judicial stay on propane issued by the U.S. Court of Appeals or the administrative stay on flammable hydrocarbon fuels published by EPA?

- The law does not directly affect the judicial stay on propane. The law and judicial stay are generally consistent as both provide relief to propane facilities. However, there are differences between the two. First, the law is permanent while the judicial stay is temporary and can be lifted by the court at any time. Second, the law applies to all listed flammable substances that are used as a fuel or held for sale as a fuel at a retail facility, while the judicial stay applies only to propane facilities (regardless of type). The law essentially makes the administrative stay moot. The purpose of the administrative stay was to relieve certain fuel facilities from RMP coverage while EPA completed the work necessary to create a permanent exemption for facilities having up to 67,000 pounds of flammable fuel in a process. The law reaches farther than the scope of the administrative stay, since it 1) removes from RMP coverage all listed flammable substances when used as a fuel or held for sale as a fuel at a retail facility, and 2) has no eligibility threshold. Therefore, EPA will issue a notice in the *Federal Register* withdrawing the administrative stay and the accompanying proposed rule.

Is propane the only flammable fuel that is affected by the law?

- No. The law applies to any listed flammable substance when it is used as a fuel or held for sale as a fuel at a retail facility.

Will EPA issue a list of flammable fuels that could be affected?

- Yes. As part of the rule revising the list to conform to the new law, EPA will include a list of the flammable substances that are commonly used as fuel. However, EPA will not attempt to include on the list every flammable substance that might be used as a fuel. The law removes flammable substances from the RMP program based on use as a fuel, so any flammable substance could be affected if it is used as a fuel.

Am I still covered if I am storing the substance for future use as a fuel?

- No. If you are storing the substance for future use as a fuel on-site, or you are a retail facility and you are storing it for sale as a fuel, you no longer have to comply with the risk management program.

If I no longer have to report my flammable fuel, am I still covered by the CAA General Duty Clause?

- 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.