air pollution control equipment. The plan shall be submitted to the Administrator for review and approval no later than the compliance date given in § 63.1545 of this subpart.

(ii) As required by § 63.10(d)(5)(i) of subpart A, if actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the startup, shutdown, and malfunction plan, the owner or operator shall state such information in a semiannual report. The report, to be certified by the owner or operator or other responsible official, shall be submitted semiannually and delivered or postmarked by the 30th day following the end of each calendar half; and

(iii) Any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures in the startup, shutdown, and malfunction plan, the owner or operator shall comply with all requirements of § 63.10(d)(5)(ii) of subpart A.

(e) *Subpart TTT Reports.* In addition to the information required under § 63.10 of the General Provisions, the owner or operator shall provide semi-annual reports containing the information specified in paragraphs (e)(1) through (e)(4) of this section to the Administrator or designated authority.

(1) The reports shall include records of all alarms from the bag leak detection system specified in § 63.1547(e).

(2) The reports shall include a description of the procedures taken following each bag leak detection system alarm pursuant to § 63.1547(f)(1) and (2).

(3) The reports shall contain a summary of the records maintained as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(4) The reports shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of any periods when the procedures outlined in the standard operating procedures manual required by § 63.1544(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.1544(a) and 63.1547(a).

§ 63.1550 Delegation of Authority.

(a) In delegating implementation and enforcement authority to a state under section 112(d) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the administrator and not transferred to a state.

(b) Authorities which will not be delegated to States: no restrictions.

[FR Doc. 98–10011 Filed 4–16–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[FRL–5997–2]

RIN 2050–AE46

Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7); Amendments

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 20, 1996, EPA published risk management program regulations, mandated under the accidental release prevention provisions of the Clean Air Act (CAA). These regulations require owners and operators of stationary sources subject to the regulations to submit risk management plans (RMPs) by June 21, 1999, to a central location specified by EPA. EPA is proposing amendments to these rules to reflect the government's adoption of a new industrial classification system, to add some data elements to the RMP, to establish explicit procedures for protecting confidential information, and to clarify certain items. These changes will bring the rule up to date with the new industrial classification system, provide information in the RMP that will make the data more useful, and clarify procedures and requirements. The proposed amendments in this rule address the submission of RMP information to EPA; the amendments do not address the means by which the public could access RMP information.

DATES: Comments are due on June 1, 1998. Anyone requesting a public hearing must contact EPA no later than May 4, 1998. If a hearing is held, EPA will publish the date, time and location in the **Federal Register**.

ADDRESSES: Comments should be mailed to the U.S. Environmental Protection Agency, Attn: Docket A–98–08, Room 1500, 401 M St. SW, Washington, DC 20460. E-mail comments should be sent to: A-AND-R-DOCKET@epamail.epa.gov; if comments are filed as an attachment to an e-mail, the attachment must be in WordPerfect 6.1 or an ASCII file. Paper comments should be submitted in triplicate; comments may be submitted on disk in WordPerfect 6.1 or an ASCII file.

Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should notify the person listed in **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Chemical Engineer, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency (5101), 401 M Street SW, Washington, DC 20460, (202) 260–7249, or the Emergency Planning and Community Right-to-Know Hotline at 1–800–424–9346 (in the Washington, DC metropolitan area, (703) 412–9810).

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those stationary sources that have more than a threshold quantity of a regulated substance in a process. Regulated categories and entities include:

Category	Examples of regulated entities
Chemical Manufacturers.	Basic chemical manufacturing, petrochemicals, resins, agricultural chemicals, pharmaceuticals, paints, cleaning compounds.
Petroleum	Refineries.
Other Manufacturing.	Paper, electronics, semiconductors, fabricated metals, industrial machinery, food processing.
Agriculture	Agricultural retailers.
Public Sources	Drinking water and wastewater treatment systems.
Utilities	Electric and gas utilities.
Other	Propane retailers and users, cold storage, warehousing and wholesalers.
Federal Sources	Military and energy installations.

This table is not meant to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities that EPA is aware

of that could potentially be regulated by this action. Other types of entities not listed on the table could also be regulated. To determine whether a stationary source is regulated by this action, carefully examine the provisions associated with the list of substances and thresholds under § 68.130 and the applicability criteria under § 68.10. If you have questions regarding applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The following table of contents is provided to aid in reading this preamble:

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I. Introduction and Background

A. Statutory Authority

These amendments are being proposed under sections 112(r) and 301(a)(1) of the CAA (42 U.S.C. 7412(r), 7601(a)(1)).

B. Background

The 1990 CAA Amendments revised section 112 by adding a paragraph (r), to prevent accidental releases to the air and mitigate any accidents that occur. Section 112(r) mandates that EPA promulgate a list of regulated substances, with threshold quantities. This list defines the processes at stationary sources that are subject to accidental release prevention regulations that EPA is mandated to promulgate under section 112(r)(7). EPA promulgated the list of substances on January 31, 1994 (59 FR 4478) (the ''List Rule'') and the accident release prevention regulations, the risk management program rule, on June 20, 1996 (61 FR 31668) (the ''RMP rule''). Together, these two rules are codified as part 68 of title 40 of the CFR. On January 6, 1998 (63 FR 640), EPA amended the listing requirements to adopt provisions related to certain flammables that had previously been stayed.

The list of regulated substances covers 77 acutely toxic substances and 62 flammable gases and highly volatile flammable liquids. The accidental release prevention regulations require stationary sources with one or more processes with more than a threshold quantity of a regulated substance to develop and implement a risk management program that includes an offsite consequence analysis, a five-year accident history for covered processes, a prevention program, and an emergency response program. Sources must summarize this program and submit a risk management plan (RMP) to a central location specified by EPA prior to June 21, 1999. The risk management program rule includes a tiered approach to requirements. Processes that pose low risk of offsite consequences from a worst-case release are subject to minimal requirements (Program 1). Processes in industry sectors that have significant accident histories are required to implement the process safety management (PSM) standard, which EPA adopted, with minor changes, from the Occupational Safety and Health Administration's (OSHA) PSM standard (29 CFR 1910.119) (Program 3). To eliminate inconsistent requirements, EPA also requires processes already subject to the OSHA PSM standard to implement Program 3. All other processes are subject to a streamlined prevention program (Program 2). (Program eligibility requirements are provided at 40 CFR 68.10.)

When EPA promulgated the risk management program rule, the Agency stated that it intended to work toward electronic submission of RMPs. The final rule provided that RMPs shall be submitted in a method and format to a central location as specified by EPA prior to the submission date. To provide advice to the Agency on deciding issues related to electronic submission, the Accident Prevention Subcommittee of the CAA Advisory Committee created the Electronic Submission Workgroup in October 1996 to examine the technical and practical issues associated with creating a national electronic repository of risk management plans. The Workgroup was charged with recommending how the regulated community should submit their risk management plans, and how EPA, State and local governments, and the public should have access to this information. The Workgroup included 35 representatives from State and local government, industry, environmental and public interest groups, and EPA. The Workgroup, with the approval of the Accident Prevention Subcommittee, concluded its work in June of 1997 with a Final Report. The Final Report, all meeting summaries and meeting materials can be obtained from the EPA homepage (www.epa.gov/ceppo/acc-pre.html) under ''Accident Prevention Subcommittee'' and the ''Electronic Submission Workgroup.''

Based on the Workgroup's recommendations, EPA is in the process of developing two systems, a user-friendly PC-based submission system (RMP∗Submit™) and a searchable database of RMPs, available on the Internet (RMP∗Submit™). RMPs must be submitted electronically (on diskette), with a provision for an ''electronic waiver'' for sources that lack the resources to file electronically.

II. Discussion of Proposed Rule

The purpose of today's proposed amendments is to revise part 68 to:

- Reflect the new industrial classification system that the U.S. government has adopted;
- Respond to recommendations on RMP data elements provided by the Electronic Submission Workgroup and clarify other elements;
- Provide explicit requirements for the submission of confidential business information; and
- Make technical corrections and clarifications to the rule.

This proposed rulemaking addresses only these subjects. The Agency is not, by this proposal, reconsidering any aspects of part 68, except as explicitly noted below. The proposed amendments in this rule address the submission of RMP information to EPA; the amendments do not address the means by which the public could access RMP information. EPA discourages any comments not addressed to these specific amendments.

A. NAICS Codes

On January 1, 1997, the U.S. Government, in cooperation with the governments of Canada and Mexico, adopted a new industrial classification system, the North American Industrial Classification System (NAICS) to replace the Standard Industrial Classification (SIC) codes. Because the applicability of Program 3 is driven, in part, by SIC codes and because part 68 requires the reporting of SIC codes in the RMP, EPA proposes to revise the rule to reflect the new NAICS codes.

Section 68.10(d)(1) provides that processes in the following four-digit SIC codes are subject to Program 3 requirements (unless they are eligible for Program 1): 2611 (pulp mills), 2812 (calor-alkali manufacturing), 2819 (industrial inorganics, not elsewhere classified (nec)), 2821 (plastics and resins), 2865 (cyclic crudes and intermediates), 2869 (industrial organic chemicals, nec), 2873 (nitrogen fertilizers), 2879 (agricultural chemicals, nec), and petroleum refineries (2911). As explained in the March 13, 1995, supplemental notice (60 FR 13526) and June 20, 1996 (61 FR 31668), final rule, these SIC codes were selected because these industrial sectors have significant accident histories, based on data in EPA's Accidental Release Information Program (ARIP) database and on data on accidental releases involving flammables. In each case, a substantial percentage of the sector (usually more than 20 percent) had reported releases of regulated substances and many of those releases had impacts (deaths, injuries, hospitalizations, evacuations, and shelterings). In selecting NAICS codes, EPA has used the same criteria to the extent possible; in some cases, the accident data for sectors are not detailed enough to make it possible to allocate the accidents among the new codes.

Five of the listed SIC codes have been assigned NAICS codes that include all of the sources covered by the SIC codes and no others. EPA is proposing to adopt these five NAICS codes in place of the SIC codes. (NAICS codes are either five or six digits, depending on the degree to which the sector is subdivided.)

SIC	NAICS	Sector
2812	325181	Alkalies and chlorine
2821	325211	Plastics and resins
2873	325311	Nitrogen fertilizer
2879	32532	Pesticide and other agricultural chemicals
2911	32411	Petroleum refineries

The remaining four SIC codes listed in § 68.10 (2611, 2819, 2865, and 2869) have been subdivided as follows.

SIC Code 2611 (pulp mills) has been split into three NAICS codes:

32211 Pulp mills only
322121 Pulp mills producing paper (includes part of old 2621)
32213 Pulp mills producing paperboard (includes part of old 2631)

EPA has examined the accident history of these groups. Neither paper mills (NAICS code 322121) nor paperboard mills (NAICS code 32213) meet the accident history criteria EPA used to select industry sectors. EPA, therefore, is proposing to list only NAICS code 32211.

SIC Code 2819 (industrial inorganics, nec) has been divided into four NAICS codes:

325998 Activated carbon and charcoal, which has moved to miscellaneous chemical products (old 2899)
331311 Alumina, moved to alumina refining in primary metals manufacturing
325131 Inorganic dyes, moved to inorganic dyes and pigments (old 2816)
325188 Other, in ''all other inorganic chemical manufacturing''

Activated carbon and charcoal (NAICS code 325998) have been placed in a sector with a very limited accident history. In addition, there are no releases in the ARIP database that appear to be related to the manufacture of these substances. Alumina refining (NAICS code 331311) is a new NAICS code. Research indicates that alumina is produced at approximately 19 locations; three of these companies reported releases, but none were impact releases. There were no reported releases for dyes (NAICS code 325131). Consequently, EPA is proposing to list only NAICS code 325188, all other inorganic chemical manufacturing, as it includes almost all of the releases that led to the original listing of SIC code 2819.

SIC Code 2865 (cyclic crudes and intermediates) has been split into three NAICS codes:

32511 Aromatics have been combined with aliphatics from SIC code 2869 to form a new petrochemical manufacturing code
325132 Organic dyes and pigments is a new code
325192 Other covers the cyclic crude and intermediate manufacturing

Organic pigments are manufactured at about 30 locations. These sources reported three releases, one of which was an impact release. There were no reported releases from dye manufacturers. NAICS code 325132, therefore, does not meet the eligibility criteria. Although it is difficult to determine with any certainty into which of the other two NAICS codes the sources reporting releases in old SIC code 2865 will fall, both of these sectors have a significant accident history, as demonstrated both by the ARIP data and by accidents involving flammables, which are generally not reported in ARIP. EPA, therefore, is proposing to list both NAICS codes 32511 (petrochemicals) and 325192 (other cyclic crude and intermediate manufacturing).

SIC Code 2869 (industrial organic chemicals) has been divided into five NAICS codes:

32511 Aliphatics, joined with aromatics in petrochemical manufacturing
325188 Carbon bisulfide, moved to all other inorganic chemical manufacturing
325193 Ethyl alcohol, a new separate code
32512 Fluorocarbon gases, moved to industrial gases with what used to be SIC code 2813
325199 Other, moved to all other basic organic chemical manufacturing with fatty acids from old SIC code 2899

As explained above, EPA is proposing to list NAICS codes 32511 and 325188, which draw sectors from SIC code 2869. Ethyl alcohol is produced at approximately 27 locations, mostly from grains. Two of these locations reported releases, one of which led to an evacuation. This sector, therefore, does not meet the criteria and is not being proposed for listing. Fluorocarbon gases are produced at about 15 locations; only one release was reported. These gases are being merged into a sector with more than 500 sources that reported 21 releases, 4 with impacts. Neither fluorocarbon gases themselves nor the combined sector meet the criteria and, therefore, EPA is not proposing them for listing. As with SIC code 2865, it is difficult to determine from the existing data whether the remaining sources in SIC code 2869 that reported releases will be classified in petrochemicals or other basic organic chemical manufacturing. Nonetheless, the release history of the remaining sources for flammables and toxics is significant enough that EPA is proposing to list both. EPA recognizes that including NAICS code 325199 will extend coverage to fatty acids, which were previously not included. EPA, however, does not believe that the fatty acid processes involve regulated substances, and, therefore, does not expect them to be subject to the rule.

In summary, EPA is proposing to replace the list of nine SIC codes with the following ten NAICS codes: 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, and 32532. Some processes originally subject to Program 3 because of the SIC codes would no longer be subject to Program 3 on that basis. EPA expects that most of the processes that were part of listed SIC codes, but are not in the proposed list of NAICS codes, will either continue to be subject to Program 3 because they are subject to OSHA PSM (e.g., fluorocarbon gases) or are not subject to the rule at all because they do not

include regulated substances above the thresholds. In its review of the NAICS codes, EPA also considered whether any newly created NAICS codes might meet the accident criteria; no such codes were identified. For the most part, manufacturing sectors have been assigned codes that cover the same industries as were covered by the SIC code. (A full list of the new NAICS codes and further information is available from the U.S. Bureau of the Census, www.census.gov.)

At every point in part 68 where sources are required to report the SIC code for a process (registration and both prevention programs), the rule would instead be changed to require sources to report the NAICS code for the process.

B. RMP Data Elements

1. New RMP Data Elements

The Electronic Submission Work Group recommended that EPA add three mandatory data elements that it believed are important for the success of RMP*Info™. In addition, the group recommended that some optional data elements be included in the final RMP format. Consequently, EPA is proposing to add the following mandatory data elements: The method and description for latitude and longitude, the Title V permit number, and the percentage weight of regulated toxic substances in mixtures reported in both the offsite consequence analyses and accident history. EPA also is proposing to add the NAICS code for the process that had the release to the five-year accident history section.

a. *Latitude/Longitude method and description.* As a matter of Agency policy, EPA requires that when latitude and longitude are reported, the method of determining latitude/longitude be stated and a description of what location the numbers represent (e.g., center of the site, fenceline) be provided. The RMP*Submit™ will include check lists that sources will be able to use to indicate the method and location description.

The State/EPA Data Management Program is a successful multi-year initiative linking State environmental regulatory agencies and EPA in cooperative action. The Program's goals include improvements in data quality and data integration based on location identification. Reliable and consistent location identification data are critical to support the Agency-wide development of environmental risk management strategies, methodologies, and assessments. Documentation of the method and description of the location will permit other users to evaluate whether those coordinates can support secondary uses, thus addressing EPA data sharing and integration objectives.

b. Title V permit number. Listing a Title V permit number will make it easier for EPA, states, and local agencies to identify sources that are also subject to Title V. Including this number will impose a minimal burden on sources; those who have Title V permits will have permit numbers readily available.

c. Percentage weight of a toxic substance in a mixture. The percentage weight of a regulated toxic substance in a mixture would provide useful information to those trying to understand how worst-case and alternative release scenarios have been modeled. Released in their pure forms, substances will generally travel greater distances before the concentration falls below the toxic endpoint (toxic endpoints are listed in Appendix A to 40 CFR part 68) than they will travel if the substance is released as part of a mixture. Without reporting on whether a substance was modeled as being released as part of a mixture, users of the database may assume that a substance would be released in its pure form. The distances reported for mixture releases would then appear to be understated because they are likely to travel far less than the distances that would be derived for the same substance quantity released in its pure form. This information will make it easier for users of the data to understand what a source has done without needing to seek additional information from the source. On accident history, it is important to know the physical state and concentration of a substance that was released. With such data, it is possible to determine whether certain concentrations pose a substantial hazard to the public and to help validate models.

d. NAICS code. Including the NAICS code for the process that had a release in the five-year accident history section will make it possible for EPA and others to identify industry sectors that have specific types of accidents and have a significant accident history. The ability to search its ARIP database by SIC code made it possible for EPA to identify industry sectors with significant accident histories. This information is particularly important for the chemical industry and a few other industry sectors where multiple NAICS codes may be represented at the source.

2. Optional RMP Data Elements

In addition to proposed data elements that sources would be required to report, the work group recommended that EPA include the following data elements, on a optional basis:

a. Local Emergency Planning Committee (LEPC). A source would enter its LEPC name (from a pick list tied to the source county and zip code). The LEPC data element would provide a way for LEPCs to quickly search all of the facilities in their jurisdiction. The LEPC data element would also allow EPA to determine which LEPC(s) to notify when it receives an updated RMP.

b. Source (or Parent Company) E-mail address. The source may want to provide its E-mail address to make it easier for the public to send an inquiry to the source. Including an E-mail address will aid communication efforts between industry, local government, and interested community members.

c. Source Homepage address. The source may want to provide additional graphics and information on its homepage. The database could either list the address as any other data element or set up a hyperlink to the source homepage, depending on the technical issues involved with the latter.

d. Phone number at the source for public inquiries. The source may want to provide a phone number for public inquiries. Currently the RMP data elements list the owner/operator and the emergency contact phone numbers, but no other phone numbers. A source could enter the phone number for their public liaison office or the technical contact who filled out the RMP. This data element would provide sources another option for directing public inquiries.

e. VPP status. In addition to the four optional data elements recommended by the workgroup, EPA also plans to give sources an opportunity to indicate whether they have achieved Star or Merit status under OSHA's Voluntary Protection Program (VPP). These sources are exempt from audits under § 68.220(b)(2) and (b)(7). Including this information will help implementing agencies as they develop audit plans.

EPA seeks comments on whether these items should be included on the form. EPA emphasizes that these items would be optional; a space would be provided, but sources would not be required to complete the items. EPA recognizes that many smaller sources will not have e-mail addresses or home pages and, therefore, will leave these blank.

C. Clarification of Prevention Program Reporting

EPA is proposing to revise the language in §§ 68.170 and 68.175 to clarify how prevention program

information must be reported. The definition of process, which EPA adopted verbatim from the OSHA PSM standard, is very broad. EPA believes it is important that its interpretation of process be consistent with OSHA's. That interpretation, particularly when applied to interconnected or co-located production and storage units, is so inclusive that multiple production units and, in some cases, entire sources will be considered to be a single process. OSHA and EPA have always recognized that prevention program implementation is likely to involve dividing these aggregated units into their components. For example, because all units at petroleum refineries are usually interconnected, they will count as a single process for threshold determination, but each production unit will require a separate process hazard analysis (PHA), different operating and maintenance procedures, different process safety information, and different training. OSHA included a PHA implementation schedule in its standard to recognize that large sources, such as refineries and large chemical production sources, needed time to conduct multiple PHAs even if the source is technically a single process under the definition of process.

Throughout its part 68 rulemakings and associated economic analyses, EPA has always considered that RMP reporting would be done based on the units that require separate implementation of prevention program elements, particularly the PHA and hazard review. In the preamble to the final part 68 rule, EPA stated that large chemical companies and refineries could be reporting on 30 or more processes (61 FR 31694). EPA's Economic Impact Analysis (EIA) for the part 68 rules explicitly assumed that the chemical industry, refineries, utilities, POTWs, and even drinking water systems would be implementing the prevention program elements and reporting on multiple production and storage units. In the case of the chemical industry and refineries, the EIA assumed that data on up to 25 to 30 prevention programs would be reported in the RMP.

To ensure that prevention program data are reported on the parts of larger processes that require separate program implementation, EPA is proposing to clarify the basis for prevention program reporting. The rule would be revised to make it explicit that RMP data for both Program 2 and Program 3 prevention programs would be submitted on each part of the process for which a separate hazard review or PHA was conducted. For example, a propane distribution source that conducted one hazard review on its two storage tanks would submit data on one prevention program. A refinery that conducted 25 PHAs on its 25 production units would submit information on 25 prevention programs. Separate hazard reviews or PHAs means analyses that are conducted by different people or at different times. This change is consistent with EPA's original intention. EPA believes this approach also will be more straightforward for sources. Reporting on processes that aggregate multiple production and storage units would have required collecting all of the data on individual prevention programs and merging them into a single report, increasing the likelihood of errors.

Sources are still required to determine threshold quantity and Program level using the definition of process; that is, if units are considered to be interconnected or co-located, all of the regulated substances in the aggregated units must be included in the threshold determination. EPA is not proposing to change reporting on the registration section of the RMP. Sources may report chemical identities, quantities, NAICS codes, and Program levels by process even if those processes represent multiple prevention programs. Sources may elect to list the separate units in the registration section to parallel their prevention programs, but they are not required to do so.

EPA is also proposing to drop the second sentence in paragraph (a) of both §§ 68.170 and 68.175. This sentence—''If the same information applies to more than one covered process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies''—does not impose a regulatory requirement on sources, but is advisory in nature. At this time, the RMP*Submit™ system is not being designed to allow sources to enter prevention program data once and indicate to which reported prevention programs the answers apply. Consequently, EPA is proposing to remove this sentence.

The data required for the RMP are specified in §§ 68.155–180. To make a searchable database possible, some of the items will be required to be reported from checklists, which are not in the rule. For example, the rule requires that the source list the major hazards identified during the hazard review or process hazard analysis; the RMP format will provide a list of potential hazards that sources must use when filing. During the process of developing the electronic format, some of these checklists may change to provide more options for sources and to ensure that the data give the needed information (e.g., on-site deaths and injuries will be reported for employees/contractors, public responders, and others). The current version of the draft format is available at: http://www.epa.gov/ceppo/rules/dataelem.html or from the EPCRA hotline.

D. Confidential Business Information (CBI)

Members of the Electronic Submission Work Group and others have asked how EPA plans to handle information within the RMP that is ''confidential business information.'' Part 68 provides protection for ''classified'' information, but this applies only to Federal agencies and their contractors. Part 68 does provide, in § 68.210, that information will be available to the public under CAA section 114(c), which limits how the Administrator must handle certain confidential or proprietary information.

In response to these questions and to clarify procedures for submitting RMPs that contain confidential business information (CBI), EPA is proposing to add two sections to the rule to govern CBI claims with regard to RMP data. The rules governing CBI that already exist in 40 CFR part 2 will continue to provide the substantive criteria that must be met to assert such claims. To qualify for CBI protection, the substantive criteria set forth at 40 CFR 2.301 require that the data be commercial or financial, that they not be available to the public through other means, that the source take appropriate steps to prevent disclosure, and that disclosure of the data would be likely to cause substantial harm to the source's competitive position. In new § 68.151, EPA would provide a list of RMP data elements that are not claimable as CBI and specify procedures and timing for submission of claims and substantiation.

In the following paragraphs, EPA discusses those RMP data elements that the Agency proposes are not CBI and are, therefore, not claimable as such. EPA solicits comment on these assessments. EPA also notes that certain of the data elements that would be claimable as CBI under the proposed rule (release rate and release duration, among others) would appear to be ''emission data'' and, therefore, not be CBI under 40 CFR 2.301, considering the Agency's existing policy regarding ''emission data.'' See 56 FR 7042 (Feb. 21, 1991). EPA specifically requests comment on the appropriateness of applying this policy to the RMP data elements for purposes of the final rule.

EPA is proposing that the following Registration data elements could not be claimed as CBI:

- Source identification information (name, address, telephone numbers, Dun & Bradstreet numbers, emergency contact data);
- Name or title of the person responsible for risk management program implementation;
- The Program level and NAICS codes of the processes registered;
- Number of employees;
- Whether the source is subject to other rules; and
- Date of the last safety inspection.

These data elements are generally available from other filings with Federal, state, or local agencies, and from other sources and, therefore, do not meet the criteria for CBI claims. Source identification data and NAICS codes are filed with EPA, states, and local entities and are publicly available under EPCRA, among other requirements, and are available from many other public sources, including industrial directories. Number of employees is submitted to the Census Bureau and is available for many facilities from industrial directories. Whether a source is subject to other rules and the date of safety inspections can be obtained from public agencies and are unlikely to affect a source's competitive position. The name or title of the person responsible for program implementation will not be available elsewhere, but would not affect a source's competitive position. The program level of the process also is not available elsewhere, but, by itself, reveals no confidential business information. Therefore, none of these elements is eligible for protection.

EPA is proposing that the following offsite consequence analysis data could not be claimed as CBI:

- Basis of the results (model used).
- Topography.
- Distance to an endpoint; and
- Public and environmental receptors (including population potentially affected) within the distance to the endpoint.

EPA believes that certain offsite consequence analysis data may be eligible for CBI protection, specifically, chemical identity and quantity released. Because of the ability to derive chemical identity and quantity released from other data included in the offsite consequence analysis (e.g., release rate and duration), EPA is also proposing that sources may claim CBI for those other data elements. However, EPA is proposing that some offsite consequence analysis items are not CBI. Without the information on the chemical identity, quantity, release rate, and duration, the model used and topography could not be used to derive the chemical identity or quantity and, therefore, by themselves provide no confidential information. Further, EPA believes distance to an endpoint and public and environmental receptors are of most interest to the public, and, their disclosure reveals no source business data.

EPA is proposing that CBI treatment may not be claimed for any accident history data. The date, time, and duration of the release, the chemicals and quantities released, type of event, source, and impacts will be reported to EPA or other agencies under existing laws before the RMP is submitted; more importantly, databases with this information are publicly available. Moreover, the initiating event and contributing factors are generic enough that reporting them will reveal no confidential business information.

EPA is proposing that all dates reported for prevention program elements could not be claimed as CBI. These dates reveal no confidential business information. They are merely evidence of having complied with EPA rules and would not affect a source's competitive position. Similarly, because all emergency response information must be available to public responders and because it reveals no data that would affect a source's competitive position, EPA proposes that it be excluded from CBI claims.

EPA believes that only a limited number of sources, primarily chemical manufacturers, will have a basis for claiming the remaining RMP data elements as CBI. EPA's justifications for its specific CBI findings appear in an appendix to this preamble. An even more detailed analysis of all RMP data elements and proposed CBI determinations is available in the docket (see the **ADDRESSES** section).

To assert a CBI claim, a source would be required to submit to EPA its RMP in two versions: (1) a redacted (''sanitized''), electronic version, which would become part of the RMP database, and (2) an unredacted (''unsanitized''), paper copy. The redacted version would identify each data element, except chemical identity, claimed as CBI by entering ''CBI'' into the data field or leaving the field blank. For chemical identity, the source would be required to provide a generic chemical category or class name in lieu of the actual chemical name. At the time of RMP submission, the source would also be required to submit to EPA its substantiation for each item claimed. Information contained in a substantiation may be claimed as CBI in accordance with 40 CFR 2.301. If all or part of the substantiation is claimed as CBI, a redacted version of substantiation must also be filed with EPA. This approach of submitting dual substantiations is the same as that used for trade secret claims filed under the Emergency Planning and Community Right to Know Act of 1986 (EPCRA). Review of these CBI claims will be conducted in accordance with 40 CFR part 2 and the present rulemaking.

EPA will make the redacted (sanitized) versions of the RMPs available to the public, States, and local governments by including them in RMP*Info™. Should States or LEPCs want to obtain the unsanitized version from EPA, they may do so by filing a written request with EPA for the information. EPA will respond to such requests consistent with 40 CFR 2.301(h)(3), which governs disclosures to States and local agencies having duties or responsibilities under the Clean Air Act and its implementing regulations. A State or local government may, under this provision, obtain CBI from EPA under two circumstances: (1) it provides EPA a written opinion from its chief legal officer or counsel stating that the State or local agency has the authority under applicable State or local law to compel the business to disclose the information directly; or (2) the businesses whose information is disclosed are informed and the State or local government has shown to an EPA legal office's satisfaction that its use and disclosure of the information will be governed by State or local law and by ''procedures which will provide adequate protection to the interests of affected businesses.''

Notwithstanding the foregoing process, State and local governments may always obtain the unsanitized versions of the RMP by enacting regulations to require sources in their jurisdiction to submit the CBI directly to State and local entities. EPA encourages those State and local authorities wishing to receive the unsanitized RMPs to use their own authority to require such information, rather than seeking it under EPA's disclosure regulations.

EPA is also proposing to amend part 68 by adding § 68.152. This section would reference the substantive criteria set forth at 40 CFR 2.301 and require sources to claim, and substantiate, CBI at the time RMP data are submitted. Failure to do so would be considered a waiver of CBI by the source, and the data would be disclosed to the public and made part of the RMP*Info database. Section 68.152 also would require the source's owner, operator, or

senior official to certify the accuracy of its CBI substantiation claims. Adopting the § 2.301 criteria without change ensures that there will be no conflicting interpretations between existing CBI criteria and the proposed set of rules. Because the existing CBI criteria are used under many environmental statutes, they are familiar to industry.

It should be noted that information properly claimed as CBI in accordance with this regulation may nevertheless be disclosed to the public pursuant to the community right-to-know provisions of other environmental laws. Under EPCRA section 303, local emergency planning committees (LEPCs) must prepare and make publicly available comprehensive emergency response plans for their jurisdictions. These plans must address, among other things, facilities that are subject to the emergency planning and notification requirements of EPCRA sections 302 and 303 (''EPCRA Planning facilities''). Accordingly, section 303(d)(3) permits an LEPC to compel an owner or operator of an EPCRA Planning facility to provide any information (except trade secret information properly withheld pursuant to section 322 of EPCRA) necessary to enable the LEPC to develop and implement the emergency plan. An EPCRA Planning facility which receives from its LEPC a proper section 303(d)(3) request for information contained in its RMP must therefore provide the information promptly, irrespective of a valid CBI claim under this rule. Similarly, a proper CBI claim under this part will bind only the Administrator and will not prevent an LEPC from disclosing certain confidential information collected under EPCRA section 303(d)(3), because information included in an emergency plan must be made public under EPCRA section 324(a) and because State or local laws may require the LEPC to make such information public. Furthermore, once that information is requested by the LEPC and available to the public, that information would no longer be subject to CBI protection under Federal CBI rules.

E. Other Changes

When part 68 was promulgated, § 68.79(a), which was adopted from the OSHA PSM standard, was not revised to reflect the different structure of EPA's rule. The OSHA PSM standard is contained in a single section; EPA's Program 3 prevention program is contained in a subpart, with OSHA paragraphs handled as separate sections. Rather than referencing ''this section,'' the paragraph should have referenced the ''subpart.'' The section would be changed to correct this error and ensure that the compliance audit covers the entire prevention program.

Under § 68.180(b), EPA intended that all covered sources report the name and telephone number of the agency with which they coordinate emergency response activities, even if the source is not required to have an emergency response plan. However, the rule refers only to coordinating the emergency plan. EPA is proposing to revise the rule to include both the plan and response activities.

III. Section-by-Section Discussion of the Proposed Rule

In Section 68.3, Definitions, the definition of SIC would be removed and the definition of NAICS added.

Section 68.10, Applicability, would be revised to replace the SIC codes with NAICS codes, as discussed above.

Section 68.42, Five-Year Accident History, would be revised to require the percentage concentration by weight of regulated toxic substances released in a mixture and NAICS code for the process that had the release.

Section 68.79, Compliance Audits, the word ''section'' in paragraph (a) would be replaced by ''subpart.''

Section 68.150, Submission, would be revised by adding a paragraph to state that procedures for asserting CBI claims and determining the sufficiency of such claims are provided in new §§ 68.151 and 68.152 and in 40 CFR part 2.

Section 68.151 would be added, as discussed above.

Section 68.152 would be added, as discussed above.

Section 68.160, Registration, would be revised by adding the requirements for the method and description of latitude and longitude, replacing SIC codes with NAICS codes, and adding the requirement to report a Title V permit number, when applicable.

Section 68.165, Offsite Consequence Analysis, would be revised by adding the requirement that the percentage weight of a regulated toxic substance in a mixture be reported.

Section 68.170, Prevention Program/Program 2 would be revised to clarify the basis for reporting to make it clear that RMP data for prevention programs must be submitted for each part of the process for which a separate hazard review is conducted and to replace SIC codes with NAICS codes.

Section 68.175, Prevention Program/Program 3 would be revised to clarify the basis for reporting to make it clear that RMP data for prevention programs must be submitted for each part of the process for which a separate PHA is conducted and to replace SIC codes with NAICS codes.

Section 68.180 would be revised to clarify paragraph (b) as discussed above.

Section 68.210, Availability of information to the public, would be revised to include references to §§ 68.150 through 68.152 and to replace the reference to CAA section 114© with a reference to 40 CFR part 2.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this proposed rulemaking. The docket is a dynamic file, because it allows members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under Docket No. A–98–08 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document.

Electronic comments can be sent directly to EPA's Air and Radiation Docket and Information Center at: ''A-and-R-Docket@epamail.epa.gov''. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–98–08. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

B. Public Hearing and Written Comments

A public hearing will be held, if requested, to discuss the proposed amendments in accordance with section 307(d)(5) of the Clean Air Act. If a public hearing is requested and held,

the EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held. Persons wishing to present oral testimony or to inquire as to whether a hearing is to be held should contact the EPA (see **ADDRESSES**). To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each.

Any member of the public may file a written statement on or before June 1, 1998. Written statements should be addressed to the Air and Radiation Docket and Information Center (see **ADDRESSES**), and refer to Docket No. A–98–08. A verbatim transcript of the hearing and written statements will be placed in the docket and be available for public inspection and copying, or mailed upon request, at the Air and Radiation Docket and Information Center.

C. E.O. 12866

Under Executive Order (E.O.) 12866, EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the E.O. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal government or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

It has been determined that today's proposed rule is not a ''significant regulatory action'' under the terms of E.O. 12866 and is, therefore, not subject to OMB review.

D. E.O. 12875

To reduce the burden of Federal regulations on States and small governments, President Clinton issued Executive Order 12875 on October 26, 1993, entitled ''Enhancing the Intergovernmental Partnership.'' Under Executive Order 12875, EPA may not issue a regulation which is not required by statute unless the Federal Government provides the necessary funds to pay the direct costs incurred by the State and small governments or EPA provides to the Office of Management and Budget a description of the prior consultation and communications the agency has had with representatives of State and small governments and statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected and other representatives of State and small governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

The present proposed rule satisfies the requirements of Executive Order 12875 because it is required by statute and because it does not contain a significant unfunded mandate. Section 112(r) of the Clean Air Act requires that facilities submit risk management plans containing certain essential information. This rulemaking, together with the rule it amends, implements that statutory command. In addition, this rule contains no mandate binding upon State or small governments. Nevertheless, EPA has taken independent efforts to involve such entities in this regulatory effort; specifically, much of the rule responds to issues raised by the Electronic Submission Workgroup discussed above, which included State and local government stakeholders.

E. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act, Federal agencies must evaluate the impacts of rules on small entities. EPA has examined this proposed rule's potential effects on small entities as required. EPA has determined that this proposed rule will have a negligible effect on small entities because the proposed rule would, if promulgated, only impose real costs on those small businesses that claim CBI when submitting the RMP. EPA estimates that very few small entities (approximately 500) will claim CBI and that these few entities represent a small fraction of the small entities (less than 5 percent) affected by the RMP rule. Finally, EPA estimates that those small businesses filing CBI will experience a cost which is significantly less than one percent of their annual sales. Therefore, I certify that today's proposed rule will not have a significant economic effect on a substantial number of small entities. For a more detailed analysis of the small entity impacts of this proposed rulemaking, see Document Number II–B–03, available in the docket for this rulemaking (see **ADDRESSES** section).

F. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1656.04) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St, SW, Washington, DC 20460, by e-mail at farmer.sandy@epamail.epa.gov or by calling (202) 260–2740. A copy may also be downloaded off the Internet at http://www.epa.gov/icr.

The submission of the RMP is mandated by section 112(r)(7) of the CAA and demonstrates compliance with part 68. The information collected also will be made available to state and local governments and the public to enhance their preparedness, response, and prevention activities. Information in the RMP may be claimed as confidential business information under 40 CFR part 2 and part 68.

EPA estimates that the new data elements will impose little burden on sources; latitude and longitude method and description will be selected from a list of options. The Title V permit number is available to any source to which it applies. Percentage weight of a toxic substance in a mixture is usually provided by the supplier of the mixture. The NAICS code is simply a change from one code to another; sources will have determined their NAICS codes for the 1997 Census of Manufacturers prior to RMP submission.

The public reporting burden for CBI claims is estimated to be 15 hours for chemical manufacturers with Program 3 processes. EPA estimates that approximately 20 percent of the 4000 chemical manufacturers may file CBI claims (800 sources). The total annual public reporting burden for filing CBI claims is estimated to be about 12,000 hours over three years, or an annual burden of 4,000 hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire,

install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division, 2137, U.S. Environmental Protection Agency, 401 M Street SW, Washington D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ''Attn: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 17, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by May 18, 1998. The final rule will respond to any OMB and public comments on the information collection requirements contained in this proposed notice.

G. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995 (109 Stat. 48), requires that the Agency prepare a statement, including a cost-benefit analysis, before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Where the rule might significantly affect small governments, section 203 requires the Agency to establish a plan for obtaining input from small governments and informing, educating, and advising them on compliance with the requirements of the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

The EPA has determined that the total nationwide capital cost for these rule amendments is approximately zero and the annual nationwide cost for these amendments is less than $1 million. Because this rule is estimated to result in the expenditure by State and local governments, in the aggregate, or by the private sector of less than $100 million in any one year, the Agency has not prepared a statement or engaged in an alternatives analysis pursuant to sections 202 and 205 of the Unfunded Mandates Act.

Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments in accordance with section 203 of the Unfunded Mandates Act.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub L. 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA. EPA invites public comment on this analysis.

Appendix to Preamble—Data Elements That May Not Be Claimed As CBI

Rule element	Comment
68.160(b)(1). Stationary source name, street, city, county, state, zip code, latitude, and longitude; 68.160(b)(2) Stationary source Dun and Bradstreet number; 68.160(b)(3) Name and Dun and Bradstreet number of the corporate parent company; 68.160(b)(4) The name, telephone number, and mailing address of the owner/operator.	This information is filed with EPA and other agencies under other regulations and is made available to the public and, therefore, does not meet the criteria for CBI claims. It is also available in business and other directories.
68.160(b)(5) The name and title of the person or position with overall responsibility for RMP elements and implementation.	This information provides no information that would affect a source's competitive position.
68.160(b)(6) The name, title, telephone number, and 24-hour telephone number of the emergency contact.	This information is filed with state and local agencies under EPCRA and is made available to the public and, therefore, does not meet the criteria for CBI claims.
68.160(b)(7) Program level and NAICS code	This information provides no information that would affect a source's competitive position.
68.160(b)(8) The stationary source EPA identifier	This information provides no information that would affect a source's competitive position.
68.160(b)(9) The number of full time employees	This information is available for many sources from public directories. This information provides no information that would affect a source's competitive position.
68.160(b)(10) Whether the source is subject to 29 CFR 1910.119	This information provides no information that would affect a source's competitive position.

Rule element	Comment
68.160(b)(11) Whether the source is subject to 40 CFR part 355	Sources are required to notify the state and local agencies if they are subject to this rule; this information is available to the public and, therefore, does not meet the criteria for CBI claims.
68.160(b)(12) Whether the source has a CAA Title V operating permit	This information will be known to state and federal air agencies and is available to the public and, therefore, does not meet the criteria for CBI claims.
68.160(b)(13) The date of the last safety inspection and identity of the inspecting agency.	This information provides no information that would affect a source's competitive position.
68.165(b)(3) Basis of the results (give model name if used)	Without the chemical name and quantity, this reveals no business information.
68.165(b)(9) Topography (toxics only)	Without the chemical name and quantity, this reveals no business information.
68.165(b)(10) Distance to an endpoint	By itself, this information provides no confidential information. Other elements that would reveal chemical identity or quantity may be claimed as CBI.
68.165(b)(11) Public and environmental receptors within the distance	By itself, this information provides no confidential information. Other elements that would reveal chemical identity or quantity may be claimed as CBI.
68.168 Five-year accident history	Sources are required to report most of these releases and information (chemical released, quantity, impacts) to the federal, state, and local agencies under CERCLA and EPCRA; these data are available to the public and, therefore, do not meet the criteria for CBI claims. Much of this information is also available from the public media.
68.170(b), (d), (e)(1), and (f)-(k); 68.175(b), (d), (e)(1), and (f)-(p); NAICS code, prevention program compliance dates and information.	NAICS codes and the prevention program compliance dates and information provide no information that would affect a source's competitive position.
68.180 Emergency response program	This information provides no information that would affect a source's competitive position.

List of Subjects in 40 CFR Part 68

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 9, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the Preamble, Title 40, Chapter I, Subchapter C, Part 68 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 68—CHEMICAL ACCIDENT PREVENTION PROVISIONS

1. The authority citation for part 68 continues to read as follows:

Authority: 42 U.S.C. 7412(r), 7601(a)(1), 7661–7661f.

2. Section 68.3 is proposed to be amended by removing the definition of SIC and by adding in alphabetical order the definition for NAICS to read as follows:

§ 68.3 Definitions.

* * * * *

NAICS means North American Industrial Classification System.

* * * * *

3. Section 68.10 is proposed to be amended by revising paragraph (d)(1) to read as follows:

§ 68.10 Applicability.

* * * * *

(d) * * *

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or

* * * * *

4. Section 68.42 is proposed to be amended by revising paragraph (b)(3), redesignating paragraphs (b)(4) through (b)(10) as paragraphs (b)(5) through (b)(11) and by adding a new paragraph (b)(4) to read as follows:

§ 68.42 Five-year accident history.

* * * * *

(b) * * *

(3) Estimated quantity released in pounds and, for mixtures of regulated toxic substances, percentage concentration by weight of the released regulated substance in the mixture;

(4) NAICS code for the process;

* * * * *

5. Section 68.79 is proposed to be amended by revising paragraph (a) to read as follows:

§ 68.79 Compliance audits.

(a) The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.

* * * * *

6. Section 68.150 is proposed to be amended by adding paragraph (e) to read as follows:

§ 68.150 Submission.

* * * * *

(e) Procedures for asserting and determining that some of the information submitted in the RMP is entitled to protection as confidential business information are set forth in §§ 68.151 and 68.152 and in 40 CFR part 2.

7. Section 68.151 is proposed to be added to read as follows:

§ 68.151 Assertion of claims of confidential business information.

(a) Except as provided in paragraph (b) of this section, a claim of confidential business information may be made for any data elements that meet the criteria provided in 40 CFR 2.301.

(b) Notwithstanding the procedures specified in 40 CFR part 2, the following data elements shall not be claimed as confidential business information for the purposes of complying with this part:

(1) Registration data set forth in § 68.160(b)(1) through (b)(6) and (b)(8) through (b)(13) and NAICS code and Program level of the process set forth in § 68.160(b)(7);

(2) Offsite consequence analysis set forth in § 68.165(b)(3), (b)(9), (b)(10) and (b)(11);

(3) Accident history data set forth in § 68.168;

(4) Prevention program data set forth in § 68.170(b), (d), (e)(1), (f) through (k);

(5) Prevention program data set forth in § 68.175(b), (d), (e)(1), (f) through (p);

(6) Emergency response program data set forth in § 68.180.

(c) Notwithstanding the procedures specified in 40 CFR part 2, to assert a claim that one or more data elements are entitled to protection as confidential business information, the owner or operator shall submit to EPA the following:

(1) An unsanitized (unredacted) paper copy of the RMP that clearly identifies each data element that is being claimed as confidential business information;

(2) A sanitized (redacted) copy of the RMP that shall be identical to the unsanitized copy of the RMP except that the submitter shall replace each data element, except chemical identity, claimed as confidential business information with the notation ''CBI'' or a blank field. For chemical identities claimed as CBI, the submitter shall substitute a generic category or class name; and

(3) At the time of submission of the RMP, a sanitized and unsanitized document substantiating each claim of confidential business information.

8. Section 68.152 is proposed to be added to read as follows:

§ 68.152 Substantiating claims of confidential business information.

(a) Claims of confidential business information must be substantiated by providing documentation that demonstrates that the information meets the substantive criteria set forth in 40 CFR 2.301.

(b) The submitter may claim as confidential information submitted as part of the substantiation. To claim materials as confidential, the submitter shall clearly designate those portions of the substantiation to be claimed as confidential by marking them as confidential business information. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

(c) The owner, operator, or senior official with management responsibility shall sign a certification that the signer has personally examined the information submitted and that based on inquiry of the persons who compiled the information, the information is true, accurate, and complete, and that those portions of substantiation claimed as confidential business information would, if disclosed, reveal trade secrets or other confidential business information.

9. Section 68.160 is proposed to be amended by revising paragraphs (b)(1), (b)(7), and (b)(12) to read as follows:

§ 68.160 Registration.

* * * * *

(b) * * *

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

* * * * *

(7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the NAICS code of the process, and the Program level of the process;

* * * * *

(12) If the stationary source has a CAA Title V operating permit, the permit number; and

* * * * *

10. Section 68.165 is proposed to be amended by revising paragraph (b) to read as follows:

§ 68.165 Offsite consequence analysis.

* * * * *

(b) The owner or operator shall submit the following data:

(1) Chemical name;

(2) Percentage weight of the chemical in a mixture (toxics only);

(3) Physical state (toxics only);

(4) Basis of results (give model name);

(5) Scenario (explosion, fire, toxic gas release, or liquid spill and evaporation);

(6) Quantity released in pounds;

(7) Release rate;

(8) Release duration;

(9) Wind speed and atmospheric stability class (toxics only);

(10) Topography (toxics only);

(11) Distance to endpoint;

(12) Public and environmental receptors within the distance;

(13) Passive mitigation considered; and

(14) Active mitigation considered.

11. Section 68.170 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 68.170 Prevention program/Program 2.

(a) For each part of a Program 2 process for which a separate hazard review was conducted, the owner or operator shall provide in the RMP the information indicated in paragraphs (b) through (k) of this section.

(b) The NAICS code for the part of the process.

* * * * *

12. Section 68.175 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 68.175 Prevention program/Program 3.

(a) For each part of a Program 3 process for which a separate process hazard analysis was conducted, the owner or operator shall provide in the RMP the information indicated in paragraphs (b) through (p) of this section.

(b) The NAICS code for the part of the process.

* * * * *

13. Section 68.180 is proposed to be amended by revising paragraph (b) to read as follows:

§ 68.180 Emergency response program.

* * * * *

(b) The owner or operator shall provide the name and telephone number of the local agency with which emergency response activities or the emergency response plan is coordinated.

* * * * *

14. Section 68.210 is proposed to be amended by revising paragraph (a) to read as follows:

§ 68.210 Availability of information to the public.

(a) The RMP required under subpart G of this part shall be available to the public except as provided in §§ 68.150 through 68.152 and 40 CFR part 2.

* * * * *

[FR Doc. 98–10145 Filed 4–16–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–43; FCC 98–57]

1998 Biennial Regulatory Review—Streamlining of Mass Media Applications, Rules, and Processes

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The Commission proposes to streamline broadcast application and licensing procedures and reduce licensee administrative and filing requirements. The Commission also proposes to eliminate rules and procedures that no longer advance key objectives. In addition, the Commission seeks comment on whether to mandate electronic filing for certain broadcast application and reporting forms. By these proposals, the Commission seeks