CHAPTER 9: RISK MANAGEMENT PLAN (PART 68, SUBPART G)

You must submit one risk management plan (RMP) to EPA for all of your covered processes (§ 68.150). EPA has developed a system to submit your RMP via the Internet (RMP*eSubmit) for your use. Your RMP is due no later than the latest of the following dates:

- The date on which your facility first has a regulated substance above the threshold quantity in a process; or
- Three years after the date on which a regulated substance is first listed by EPA, if your facility has that regulated substance above the threshold quantity.

You must fully update and resubmit all nine sections of your RMP at least every five years. Under certain circumstances, RMPs must be updated and resubmitted before their five-year anniversary (see 40 CFR §68.190(b)). Your five-year anniversary date is listed in the notification letter or e-mail that was sent to you after you submitted your last RMP.

The Agency has an Internet-based system, called RMP*eSubmit, for submitting a new RMP or making changes or corrections to an existing RMP. RMP*eSubmit is available on EPA's Central Data Exchange (CDX) – the Agency's electronic reporting site. If you are new to submitting RMPs, you should go to EPA's public Web site at www.epa.gov/emergencies/rmp to find instructions on how to obtain a CDX account and register as an RMP submitter or certifier in CDX.

Facilities that submit RMPs and later change their process(es) in ways that make them no longer subject to part 68 (e.g., switching to unregulated substances or reducing inventories of regulated substances to less than threshold quantities) must de-register their RMP within six months of making the change.

Finally, facilities submitting changes to their RMPs must identify the type of change being submitted and the reason for the change (e.g., submission of an updated RMP as a result of a process change at the plant). This information will help implementing agencies understand the nature of the RMP submission being made.

9.1 ELEMENTS OF THE RMP

The length and content of your RMP will vary depending on the number and program levels of the covered processes at your facility. See Chapter 2 for detailed guidance on how to determine the program levels of each of the covered processes at your facility.

Any facility with one or more covered processes must include in its RMP:

- An executive summary (§ 68.155);

- The registration for the facility (§ 68.160);
- The certification statement (§ 68.185);
- A worst-case scenario analysis for each Program 1 process; at least one worst-case scenario analysis to cover all Program 2 and 3 processes involving regulated toxic substances; at least one worst-case scenario analysis to cover all Program 2 and 3 processes involving regulated flammables (§ 68.165(a));
- The five-year accident history for each process (§ 68.168); and
- Information concerning emergency response at the facility (§ 68.180).

Any facility with at least one covered process in Program 2 or 3 must also include:

- At least one alternative release scenario analysis for each regulated toxic substance in Program 2 or 3 processes and at least one alternative release scenario analysis to cover all regulated flammables in Program 2 or 3 processes (§ 68.165(b));
- A summary of the prevention program for each Program 2 process (§ 68.170); and
- A summary of the prevention program for each Program 3 process (§ 68.175).

Subpart G of part 68 (see Appendix A) describes the data required for each of the elements. RMP*eSubmit and its accompanying user's manual contain more detailed instructions. RMP*eSubmit is designed to limit the number of text entries. For example, the rule requires you to report on the major hazards identified during a PHA or hazard review and on public receptors potentially affected by worst-case and alternative release scenarios. RMP*eSubmit provides a list of options for you to check for these elements. Except for the executive summary, the RMP consists primarily of yes/no answers, numerical information (e.g., dates, quantities, distances), and a few text answers (e.g., names, addresses, chemical identity). Where possible, RMP*eSubmit provides "pick lists" to help you complete the form. For example, RMP*eSubmit provides a list of regulated substances and automatically fills in the CAS numbers when you select a substance. The RMP*eSubmit User's Manual and on-line help screens explain each data element and provide guidance on acceptable data entry. Access to both RMP*eSubmit and the RMP*eSubmit User's Manual is available free of charge – for further instructions visit EPA's Web site at www.epa.gov/emergencies/rmp.

9.2 RMP SUBMISSION

ELECTRONIC SUBMISSION

EPA has made RMP*eSubmit available to complete and file your RMP. RMP*eSubmit does the following:

- Provides a user-friendly, Web-based RMP Submission System;
- Performs data quality checks, accepts limited graphics, and provides on-line help including defining data elements and providing instructions;
- Online reporting simplifies the process. It saves you time, and improves data quality and security;
- EPA uses industry-standard technology, including encryption used by most commercial banks, as well as stringent user ID and password protocols to protect your information; and
- You will be able to access your RMP online at any time.

For a facility to submit their RMP, the certifier will be required to have a CDX account. Some facilities may use CDX to report other data to the Agency, and if your facility's certifying official already has a CDX account, he/she can use it to obtain access to RMP*eSubmit. If you are new to CDX, visit EPA's public Web site at www.epa.gov/emergencies/rmp, to learn how to obtain a CDX account and gain access to RMP*eSubmit.

HARD COPY SUBMISSION

If you are unable to submit electronically you may fill out the Paper Submission form available in the RMP*eSubmit User's Manual and send it in with your RMP. See the RMP*eSubmit User's Manual for more information on the Paper Submission form. If you submit on paper, you will need to use the official form. If you do not use the official form, your RMP cannot be processed. You can download the RMP*eSubmit User's Manual free of charge at www.epa.gov/emergencies/rmp.

IMPORTANT REMINDERS

If you submit on paper, do not forget your certification letter. A certification letter is required for all RMP submissions. See the RMP*eSubmit User's Manual for more information on the certification letter.

If you use the RMP*eSubmit system, you will certify your RMP electronically – however, you will be required to submit a one-time Electronic Signature Agreement form prior to the first time you submit an RMP using RMP*eSubmit. The CDX system will guide you through the ESA process when you first register for CDX access as an RMP certifying official.

EPA's old PC-based electronic reporting software – RMP*Submit – will no longer be available for download from the EPA Web site beginning in March 2009.

WHERE DO I SEND MY RMP?

If you use RMP*eSubmit, your RMP will be submitted over the Internet. The process will require you to complete and mail a one-time Electronic Signature Agreement to EPA prior to your first RMP submission using RMP*eSubmit.

If you submit a hard copy RMP, you must also include a certification letter (see the RMP*eSubmit User's Manual for more information on the certification letter). After completing the certification letter and RMP forms, you should send them together via certified mail to:

Risk Management Plan (RMP) Reporting Center
P.O. Box 1515
Lanham-Seabrook, Maryland 20703-1515

For courier and FEDEX packages, the address is:
Risk Management Plan (RMP) Reporting Center
c/o CSC
Suite 300
8400 Corporate Drive
New Carrollton, Maryland 20785

9.3 ISSUES PERTAINING TO SUBMISSIONS OF AND ACCESS TO CLASSIFIED, CONFIDENTIAL BUSINESS INFORMATION (CBI), AND TRADE SECRETS

WHAT SHOULD I DO ABOUT CLASSIFIED INFORMATION?

Only Federal agencies and their contractors at Federal facilities may make claims of classified information. If you have such a claim, EPA urges you not to submit the information you claim as classified as part of your RMP. If any classified information is critical to the clarity and completeness of any part of the RMP, you should submit that information separately, on paper, in an annex to the RMP. Any annex marked as classified will be reviewed only by Federal and state representatives who have received security clearances and are thereby authorized to review such information.

WHAT SHOULD I DO ABOUT CONFIDENTIAL BUSINESS INFORMATION (CBI)?

Under CAA section 114(c), 40 CFR part 2 and part 68, you may claim some information included in your RMP as CBI if you are able to show that the information meets the substantive criteria set forth in 40 CFR 2.301. These criteria generally require that the data be commercial or financial in nature, that they not be available to the public through other means, that you take appropriate steps to prevent disclosure, and that disclosure of the data would be likely to cause substantial harm to your competitive position. Review of any CBI claims will be handled as provided for in 40 CFR part 2. However, part 68 provides that certain RMP data elements may not be claimed as CBI because they do not convey any business-sensitive information. EPA has developed specific procedures for submission of CBI claims for RMPs. See §§ 68.151 and 68.152 for details on what data may be claimed as CBI and how to assert such claims. It is worth noting that few CBI claims have been asserted since RMPs were first submitted in 1999.

In general the part 68 procedures provide that:

- Owners or operators must substantiate CBI claims at the time they make the claim by providing documentation demonstrating that the claim meets the criteria set forth in 40 CFR 2.301.

- Substantiating information may be claimed confidential by marking it as CBI. Information that is not so marked will be treated as public and may be disclosed without notice to the submitter. If substantiating information is claimed confidential, the owner or operator must provide a sanitized and unsanitized version of the substantiating information.

- The owner, operator, or senior official with management responsibility of the stationary source must 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 the substantiation claimed as confidential would, if disclosed, reveal trade secrets or other confidential business information.

If your RMP will include CBI, contact the RMP reporting center by phone at (301) 429-5018 or by e-mail at userrmp.usersupport@csc.com to obtain instructions on how to complete your submission.

9.4 RMP UPDATES, CORRECTIONS AND DE-REGISTRATIONS (§ 68.190)

Whether and when you are required to fully update and resubmit, correct, or de-register your RMP is based on what changes occur at your facility. Please refer to the Exhibit 9-1 and note that you are required to take action with regard to your RMP on the earliest of the dates that apply to your facility. In some cases, changes at the facility may require only a partial revision of the RMP or a simple correction of administrative or emergency contact information. Exhibit 9-1 also covers these situations.

Corrections to submissions made in hardcopy form or via the Agency's previous electronic reporting software (RMP*Submit) will need to be made in RMP*eSubmit. Regardless of how you submitted your last RMP, all data for your current RMP will be available via RMP*eSubmit, and can be corrected on-line as necessary.

CAN I FILE PREDICTIVELY?

Predictive filing is an option that allows you to submit an RMP that includes regulated substances that may not be held at the facility at the time of submission. This option is intended to assist facilities such as chemical warehouses, chemical distributors, and batch processors whose operations involve highly variable types and quantities of regulated substances, but who are able to forecast their inventory with some degree of accuracy. Under § 68.190, you are required to update and resubmit your RMP no later than the date on which a new regulated substance is first present

in a covered process above a threshold quantity. By using predictive filing, you will not be required to update and re-submit your RMP every time you receive a new regulated substance if that substance was included in your latest RMP submission (as long as you receive it in a quantity that does not trigger a revised offsite consequence analysis as provided in § 68.36). RMP*eSubmit contains an option to indicate that your RMP is a predictive filing.

If you use predictive filing, you must implement your Risk Management Program and prepare your RMP exactly as you would if you actually held all of the substances included in the RMP. This means that you must meet all rule requirements for each regulated substance for which you file, whether or not that substance is actually held on site at the time you submit your RMP. Depending on the substances for which you file, this may require you to perform additional worst-case and alternative-case scenarios and to implement additional prevention program elements. If you use this option, you must still update and resubmit your RMP if you receive a regulated substance that was not included in your latest RMP. You must also continue to comply with the other update requirements stated in § 68.190.

EXHIBIT 9-1
RMP UPDATES, CORRECTIONS AND DE-REGISTRATIONS

Change That Occurs	Date by Which You Must Update, Correct or De-register your RMP
No changes occur	At least once every 5 years from its initial submission or most recent update
A newly regulated substance is first listed by EPA	Within 3 years of the date EPA listed the newly regulated substance if your facility has more than a threshold quantity of that substance in a process
A regulated substance first becomes present above its threshold quantity in: – a process already covered; or – a new process	On or before the date the quantity of the regulated substance exceeds the threshold in the process
A change occurs at your facility that requires a revised PHA or hazard review	Within 6 months of the change
A change occurs at or near your facility that requires a revised offsite consequence analysis (e.g., you increase your inventory of a regulated substance such that it increases the distance to the endpoint by a factor of 2 or more, or a new public receptor is constructed near your facility)	Within 6 months of the change
A change occurs that alters the Program level that previously applied to any covered process	Within 6 months of the change
An accidental release meeting the reporting criteria of § 68.42 occurs at your facility	Add to and correct accident history information and incident investigation data elements within 6 months of the date of the accident (revising other RMP sections is not required unless facility changes resulting from an accident trigger a full update)
Facility emergency contact information changes	Correct the emergency contact information within one month of the change (revising other RMP elements is not required).
Minor administrative change (i.e., correct a clerical error or supply additional information)	Correct the information as soon as practicable (revising other RMP elements is not required).
A change occurs that makes the facility no longer subject to the requirement to submit an RMP	Submit a de-registration letter to EPA within 6 months of the change, indicating that the RMP is no longer required

HOW DO I DE-REGISTER?

If your facility is no longer covered by this rule, you must submit a letter to the RMP Reporting Center within six months indicating that your stationary source is no longer covered.

RECURRING ACCIDENT PREVENTION PROGRAM REQUIREMENTS

Don't forget that in addition to updating your RMP submission, the Risk Management Program regulation contains various recurring implementation requirements for covered facilities' accident prevention and emergency response programs. When you update your RMP, you should ensure that you are up to date with implementation of these requirements and that your updated RMP reflects the most recent information for your prevention and emergency response programs. The following is a list of some key elements in your RMP that you should review, as well as recurring prevention and emergency response program implementation requirements that you should make sure are completed:

- Review and update your offsite consequence analyses (OCA) at least once every 5 years (40 CFR 68.36).

  For your worst-case and alternate-case scenarios, you should review your documentation to determine that the parameters and assumptions used in the analyses are still appropriate. Such assumptions include the use of any administrative controls or passive mitigation, the estimated quantity released, the release rate, and the duration of release. The results of this review should be documented and maintained as part of your RMP records. Any changes to the scenarios resulting from this review, including changes in the distance-to-endpoint, should be reported in your updated submission.

  You should review the data used to identify and estimate population and environmental receptors to be sure that it is current. For example, new construction in your area may have resulted in public receptors closer to your facility than was the case when you first conducted the OCA for your facility. Also, you may have used Census data to estimate the residential population within the distance to endpoint. If so, you should update this estimate based on the latest Census data. Census data can be found in publications of the US Census Bureau. These publications, including the County and City Data Book, are available on the Census Bureau website (www.census.gov) and in public libraries.

- For Program 2, review and update your hazard review at least once every 5 years (40 CFR 68.50).

  The review and any updates of the hazard review, as well as resolution of any problems identified, must be documented. You should report the date of your most recent hazard review update, and the completion date for any changes resulting from the hazard review, in your RMP update.

- For Program 3, update and revalidate your process hazard analysis (PHA) at least once every 5 years (40 CFR 68.67).

  This revalidation must be conducted by a team with expertise in engineering and process operations. The team must include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific PHA methodology being used. The revalidation is intended to assure that the PHA is consistent with the current process.

  To revalidate your PHA, you should evaluate your current process hazard analysis for accuracy and completeness. This evaluation should include checking that all modifications to your process are reflected in the PHA; evaluating the process safety information to ensure that it is complete, current, and accurate; verifying that operating procedures are adequate, up-to-date, and implemented; documenting that PHA recommendations have been incorporated into equipment design, process conditions, mechanical integrity, operating procedures, training, and emergency response; verifying that recommendations have been implemented; reviewing incident investigation reports. Updated and revalidated PHAs completed to comply with OSHA's Process Safety Management Standard (29 CFR 1910.119(e)) are acceptable to meet this requirement as long as they also considered hazards that could result in off-site consequences.

  The revalidation and any updates of the process hazard analyses, as well as resolution of any recommendations, must be documented. This documentation must be retained as part of your RMP records for the life of the process. You should report the date of your most recent process hazard update, and the completion date for any changes resulting from the process hazard update, in your RMP update.

- The Risk Management Program requires several aspects of your prevention program to be periodically implemented or reviewed. The most recent dates for these activities should be reported in your RMP update:

  Training in operating procedures (40 CFR 68.54 and 68.71): For both Program 2 and 3, you are required to provide refresher training at least every three years, and more often if necessary.

  Compliance audits (40 CFR 68.58 and 68.79): For both Program 2 and 3, you are required to audit your procedures and practices for compliance with the Risk Management Program regulations at least every three years to verify their adequacy and implementation.

  Maintenance/Mechanical Integrity (40 CFR 68.56 and 68.73): For both Program 2 and 3, you are required to inspect and test your process equipment according to the schedule that you have established based on good engineering practices.

  Operating procedures (40 CFR 68.89): For Program 3 only, you are required to certify annually that your operating procedures are current and accurate.

  Management of change (40 CFR 68.75): For Program 3 only, you are required to

update your process safety information and your procedures and practices for a covered process in the event of any change to the process chemicals, technology, equipment, or procedures.

- Correction of your five-year accident history.

  You must submit a correction that revises your five-year accident history within six months of an accidental release of a regulated substance from a covered process that resulted in deaths, injuries, or significant property damage on site, or known off-site deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.

- Verify your process information.

  Although you have an ongoing responsibility to monitor whether changes to your process or to the quantities stored or handled alter your program level eligibility, your five-year update is an opportunity to verify that each covered process still meets the eligibility criteria for its program level.

- Review your emergency response program or coordination with local officials.

  If your employees will take part in responding to accidental releases, you are required to periodically review and update, as appropriate, your emergency response program and to notify your employees of any changes to your emergency response plan (40CFR 68.95). You must include the date of your most recent review of your emergency response program and most recent training in your re-submission. You should contact your Local Emergency Planning Committee (LEPC) to verify whether your facility is currently included in the community emergency response plan. You should also review and update your procedures for notifying emergency responders in an emergency. These last two steps are particularly important if your employees will not respond to accidental releases.