| **What does it say?** | **What changed?**  | **What action needs to occur?**  |
| --- | --- | --- |
| § 68.3 Definitions |
| Active measures mean risk management measures or engineering controls that rely on mechanical, or other energy input to detect and respond to process deviations. Examples of active measures include alarms, safety instrumented systems, and detection hardware (such as hydrocarbon sensors). | New definition added to the rule.  | Place this definition in appropriate element guidelines.  |
| CBI means confidential business information. | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| Inherently safer technology or design means risk management measures that minimize the use of regulated substances, substitute less hazardous substances, moderate the use of regulated substances, or simplify covered processes in order to make accidental releases less likely, or the impacts of such releases less severe. | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| LEPC means local emergency planning committee as established under 42 U.S.C. 11001(c). | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| Passive measures mean risk management measures that use design features that reduce either the frequency or consequence of the hazard without human, mechanical, or other energy input. Examples of passive measures include pressure vessel designs, dikes, berms, and blast walls. | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| Practicability means the capability of being successfully accomplished within a reasonable time, accounting for economic, environmental, legal, social, and technological factors. Environmental factors would include consideration of potential transferred risks for new risk reduction measures.  | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| Procedural measures mean risk management measures such as policies, operating procedures, training, administrative controls, and emergency response actions to prevent or minimize incidents. | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| Root cause means a fundamental, underlying, system-related reason why an incident occurred. | New definition added to the rule. (Note that this definition is different than the CCPS definition)  | Place this definition in appropriate element guidelines. |
| Third-party audit means a compliance audit conducted pursuant to the requirements of § 68.59 and/or § 68.80, performed or led by an entity (individual or firm) meeting the competency and independence described in § 68.59(c) or § 68.80(c) | New definition added to the rule.  | Place this definition in appropriate element guidelines. |
| § 68.12 General requirements. (Program 2) |
| (c)(4) Coordinate response actions with local emergency planning and response agencies as provided in §68.93; | Replaces existing and adds a new requirement to coordinate with the LEPC as outlined in §68.93 | Implement within ONE YEAR. |
| (c)(5) Develop and implement an emergency response program, and conduct exercises, as provided in §§ 68.90 to 68.96 of this part; and | Renumbered and adds the requirement to conduct exercises to the existing requirements to develop and implement an emergency response program. Points to the new and improved Emergency Response section §§ 68.90 to 68.96 (This used to be (c)(4)) | Implement within FOUR YEARS. |
| (c)(6) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in § 68.170. | Renumbered. (This used to be (c)(5)) | Implement within FOUR YEARS. |
| § 68.12 General requirements. (Program 3) |
| (d)(4) Coordinate response actions with local emergency planning and response agencies as provided in §68.93; | Replaces existing and adds a new requirement to coordinate with the LEPC as outlined in §68.93 | Implement within ONE YEAR. |
| (d)(5) Develop and implement an emergency response program, and conduct exercises, as provided in §§ 68.90 to 68.96 of this part; and | Renumbered and adds the requirement to conduct exercises to the existing requirements to develop and implement an emergency response program. Points to the new and improved Emergency Response section §§ 68.90 to 68.96 (This used to be (d)(4)) | Implement within FOUR YEARS. |
| (d)(6) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in § 68.175. | Renumbered. (This used to be (d)(5)) | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.48 Safety information. (Program 2) |
| (a)(1) Safety Data Sheets (SDS) that meet the requirements of 29 CFR 1910.1200(g); | Simply replaces the old MSDS requirements with the new SDS wording.  | Throughout your program, replace MSDS with SDS. Note that this should already have been done.  |
| § 68.50 Hazard review. (Program 2)  |  |
| (a)(2) Opportunities for equipment malfunctions or human errors that could cause an accidental release, including findings from incident investigations; | Adds “including findings from incident investigations” to things that must be identified in the Hazard Review | During your next Hazard Review, ensure that these issues are included.  |
| § 68.54 Training. (Program 2) |  |
| § 68.54(a), (b), (d) “…involved in operating a process…” | Replaces “…operating a process…” for initial, refresher, startup and updated/new procedure training. This is meant to get people to expand their training to those *involved* in operating the process – not necessarily just those termed *operators.*  | Check the wording in your Training element guidelines |
| § 68.54(e) For the purposes of this section, the term employee also includes supervisors responsible for directing process operations. | New text which means supervisors that direct process operations must be trained or tested competent in the operating procedures provided in § 68.52 that pertain to *their duties*. | Check the wording in your Training element guidelines and ensure that you are training all appropriate personnel based on their *function* rather than their title.  |
| § 68.58 Compliance Audits (Program 2) |
| § 68.58(a) …When required as set forth in paragraph (f) of this section, the compliance audit shall be a third-party audit.  | Adds a new requirement for a third-party audit in certain circumstances outlined in § 68.58(f).  | Update the Incident Investigation and Compliance Audit element guidelines to include / reference these provisions.  |
| § 68.58(f) Third-party audit applicability. The next required compliance audit shall be a third-party audit when one of the following conditions apply:(1) An accidental release meeting the criteria in § 68.42(a) from a covered process at a stationary source has occurred; or(2) An implementing agency requires a third-party audit due to conditions at the stationary source that could lead to an accidental release of a regulated substance, or when a previous third-party audit failed to meet the competency or independence criteria of § 68.59(c). | You must have a third-party audit if you have an accidental release meeting the criteria in § 68.42(a) -OR- if the implementing agency requires it. You can appeal a determination made by the implementing agency as outlined in § 68.58(g) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.58(g) Implementing agency notification and appeals.  | I’ve not added this text because it is several paragraphs explaining the multiple levels of the appeal process.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.58(h) Schedule for conducting a third-party audit. The audit and audit report shall be completed as follows, unless a different timeframe is specified by the implementing agency: (1) For third-party audits required pursuant to paragraph (f)(1) of this section, within 12 months of the release; or (2) For third-party audits required pursuant to paragraph (f)(2) of this section, within 12 months of the date of the final determination pursuant to paragraph (g)(3) of this section. However, if the final determination is appealed pursuant to paragraph (g)(4) of this section, within 12 months of the date of thefinal decision on the appeal. | If a third-party audit is required, you will have 12 months to complete it.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59 Third-party audits (Program 2) |
| § 68.59(a) Applicability. The owner or operator shall engage a third-party to conduct an audit that evaluates compliance with the provisions of this subpart in accordance with the requirements of thissection when either criterion of § 68.58(f) is met. | Just a restatement that these are the rules concerning third-party results.  | Update the Incident Investigation and Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(b) Third-party auditors and auditing teams. The owner or operator shall either:(1) Engage a third-party auditor meeting all of the competency and independence criteria in paragraph (c) of this section; or(2) Assemble an auditing team, led by a third-party auditor meeting all of the competency and independence criteria in paragraph (c) of this section. The team may include: (i) Other employees of the third-party auditor firm meeting the independence criteria of paragraph (c)(2) of this section; and(ii) Other personnel not employed by the third-party auditor firm, including facility personnel. | You can make up the auditing team from a mix of in-house and external employees but all outside personnel must meet the independence criteria in § 68.59(c).  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c) Third-party auditor qualifications. The owner or operator shall determine and document that the third-party auditor(s) meet the following competency and independence requirements:(1) Competency requirements. The third-party auditor(s) shall be: (i) Knowledgeable with the requirements of this part;(ii) Experienced with the stationary source type and processes being audited and applicable recognized and generally accepted good engineering practices; and(iii) Trained and/or certified in proper auditing techniques. | The owner or operator must determine and *document* that their third-party auditor knows the requirements of this section, the type of process including its RAGAGEP and is trained / certified in proper auditing techniques. A stand-alone certification of these requirements backed by a quality “Statement of Qualifications” of the auditing team in the report should meet these requirements.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall:(i) Act impartially when performing all activities under this section; | Self-explanatory: The third-party auditors must be unbiased and impartial when conducting the audit.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall: (ii) Receive no financial benefit from the outcome of the audit, apart from payment for auditing services. For purposes of this paragraph, retired employees who otherwise satisfy the third-party auditor independence criteria in this section may qualify as independent if their sole continuing financial attachments to the owner or operator are employer-financed or managed retirement and/or health plans; | The third-party auditors can be paid for the audit, but as you’ll soon see they won’t be conducting any other type of work for you.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall: (iii) Not have conducted past research, development, design, construction services, or consultingfor the owner or operator within the last two years. For purposes of this requirement, consulting does not include performing or participating in third-party audits pursuant to § 68.59 or § 68.80. An audit firm with personnel who, before working for the auditor, conducted research, development, design, construction, or consulting services for the owner or operator within the last two years as an employee or contractor may meet the requirements of this subsection by ensuring such personnel do not participate inthe audit, or manage or advise the audit team concerning the audit; | The third-party auditors cannot have conducted past research, development, design, construction services, or consultingfor the owner or operator within the last two years. This does NOT include these types of audits. Note that this disqualifies an *auditor* not the entire firm. You can have employees of the auditing firm that have performed work for the facility within the last two years, if they don’t participate in the audit, or manage or advise the audit team concerning the audit.Also, in an explanatory note on page #85, the EPA states the team may include “Other personnel not employed by the third-party auditor firm (e.g. facility personnel or employees of another consulting firm with specialized expertise). These personnel are not required to meet the competency and/or independence criteria of the rule.” This guidance contradicts a literal reading of the rule.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall: (iv) Not provide other business or consulting services to the owner or operator, including adviceor assistance to implement the findings or recommendations in an audit report, for a period of at least two years following submission of the final audit report; | The third-party auditors cannot work for the facility for two years **after** the audit. They can’t even give you advice on implementing recommendations. See Note on §68.59(c)(2)(iii) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall: (v) Ensure that all third-party personnel involved in the audit sign and date a conflict of interest statement documenting that they meet the independence criteria of this paragraph; and | The third-party auditors must document their independence – essentially opening them up to legal liability.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(2) Independence requirements. The third-party auditor(s) shall: (vi) Ensure that all third-party personnel involved in the audit do not accept future employment with the owner or operator of the stationary source for a period of at least two years following submission of the final audit report. For purposes of this requirement, employment does not include performing or participating in third-party audits pursuant to § 68.59 or § 68.80. | The third-party auditors cannot accept employment with the *owner/operator* of the facility for at least two years although they can continue to perform these third-party audits.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(c)(3) The auditor shall have written policies and procedures to ensure that all personnel comply with the competency and independence requirements of this section. | The auditor must have written policies on meeting the requirements of the entire § 68.59(c) section.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(d) Third-party auditor responsibilities. The owner or operator shall ensure that the third-partyauditor: (1) Manages the audit and participates in audit initiation, design, implementation, and reporting; (2) Determines appropriate roles and responsibilities for the audit team members based on the qualifications of each team member; (3) Prepares the audit report and where there is a team, documents the full audit team’s views in the final audit report;(4) Certifies the final audit report and its contents as meeting the requirements of this section; and (5) Provides a copy of the audit report to the owner or operator. | The owner / operator is responsible for ensuring the third-party auditor does their job.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(e) Audit report. The audit report shall: (1) Identify all persons participating on the audit team, including names, titles, employers and/or affiliations, and summaries of qualifications. For third-party auditors, include information demonstratingthat the competency requirements in paragraph (c)(1) of this section are met; | Self-explanatory.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(e) Audit report. The audit report shall: (2) Describe or incorporate by reference the policies and procedures required under paragraph (c)(3) of this section; | The report must include or reference the third-party’s written policies on meeting all the requirements of § 68.59(c)(3). Personally, I’d make them include them in an appendix.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(e) Audit report. The audit report shall: (3) Document the auditor’s evaluation, for each covered process, of the owner or operator’s compliance with the provisions of this subpart to determine whether the procedures and practices developed by the owner or operator under this rule are adequate and being followed. (4) Document the findings of the audit, including any identified compliance or performance deficiencies; | This seems like it is requiring the auditor to document compliance for all sections whether there were findings or not. It had been quite acceptable to only document the findings / recommendations themselves in the past. My guess is that this is much more like a “consent decree” audit where you must explicitly document compliance/non-compliance for each part of the law.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(e) Audit report. The audit report shall: (5) Summarize any significant revisions (if any) between draft and final versions of the report; and | Self-explanatory. If you make changes between the “draft” and “final” version of the report then you need to document what they were.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(e) Audit report. The audit report shall: (6) Include the following certification, signed and dated by the third-party auditor or third-party audit team member leading the audit: “*I certify that this RMP compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted and this report was prepared pursuant to the requirements of subpart C of 40 CFR part 68 and all other applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, and inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete.”* | Certification of these third-party audits is done (in part) by the auditor. Seems like a good way for the EPA to establish criminal liability for errant auditors.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(f) Third-party audit findings. (1) Findings response report. As soon as possible, but no later than 90 days after receiving the final audit report, the owner or operator shall determine an appropriateresponse to each of the findings in the audit report, and develop a findings response report… | The owner/operator has 90 days from receiving the report, they must provide a written response to each finding including a schedule for promptly addressing deficiencies.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(f)(1)(iv) A certification, signed and dated by a senior corporate officer, or an official in an equivalent position, of the owner or operator of the stationary source, stating: “*I certify under penalty of law that I have engaged a third-party to perform or lead an audit team to conduct a third-party audit in accordance with the requirements of 40 CFR 68.59 and that the attached RMP compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, consistent with the requirements of subpart C of 40 CFR part 68, as documented herein. Based on my personal knowledge and experience, or inquiry of personnel involved in evaluating the report findings and determining appropriate responses to the findings, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.”* | Certification of these third-party audits is also done by the owner/operator. Seems like a good way for the EPA to establish criminal liability.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(f)(2) Schedule implementation. The owner or operator shall implement the schedule to address deficiencies identified in the audit findings response report in paragraph (f)(1)(iii) of this section anddocument the action taken to address each deficiency, along with the date completed. | Self-explanatory. Document what was done to address findings.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(f)(3) Submission to Board of Directors. The owner or operator shall immediately provide a copy of each document required under paragraphs (f)(1) and (f)(2) of this section, when completed, to the owner or operator’s audit committee of the Board of Directors, or other comparable committee or individual, if applicable | Seems like a good way for the EPA to establish criminal liability. | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.59(g) Recordkeeping. The owner or operator shall retain at the stationary source, the two most recent final third-party audit reports, related findings response reports, documentation of actions taken to address deficiencies, and related records. This requirement does not apply to any document that is more than five years old. | Retain the last two third-party audit reports unless they are older than 5yrs old.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.60 Incident investigation. (Program 2) |
| § 68.60 (a) The owner or operator shall investigate each incident that:(1) Resulted in a catastrophic release (including when the affected process is decommissioned or destroyed following, or as the result of, an incident); or (2) Could reasonably have resulted in a catastrophic release (i.e., was a near miss). | Replaces the old wording of “resulted in, or could reasonably have resulted in a catastrophic release.” It provides a little more clarity but good practitioners have already been doing this.  | Update the Incident Investigation element guidelines to include / reference these provisions. |
| § 68.60 (c) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident. | Provides explicit requirements for the team including a performance based requirement that at least one member have knowledge of the process and other persons on the team have “appropriate knowledge and experience to thoroughly investigate and analyze the incident.” | Update the Incident Investigation element guidelines to include / reference these provisions. |
| § 68.60 (d) A report shall be prepared at the conclusion of the investigation. The report shall be completed within 12 months of the incident, unless the implementing agency approves, in writing, an extension of time. The report shall include: (1) Date, time, and location of incident; (2) Date investigation began; (3) A description of the incident, in chronological order, providing all relevant facts; (4) The name and amount of the regulated substance involved in the release (e.g., fire, explosion, toxic gas loss of containment) or near miss and the duration of the event; (5) The consequences, if any, of the incident including, but not limited to: injuries, fatalities, the number of people evacuated, the number of people sheltered in place, and the impact on the environment;(6) Emergency response actions taken;(7) The factors that contributed to the incident including the initiating event, direct and indirect contributing factors, and root causes. Root causes shall be determined by conducting an analysis for each incident using a recognized method; and (8) Any recommendations resulting from the investigation and a schedule for addressing them. | This is a complete rewrite of this section but it is self-explanatory. Good incident investigations (and their reports) already do these things. Since there are a lot of requirements here, it’s likely you’ll have to rewrite your Incident Investigation element.  | Update the Incident Investigation element guidelines to include / reference these provisions. |
| § 68.65 Process safety information. (Program 3)  |
| (a) The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule, and shall keep process safety information up-to-date. | Adding an explicit requirement to keep the PSI up to date.  | Update the Process Safety Information element guidelines to include / reference these provisions. This should already be occurring.  |
| § 68.67 Process hazard analysis. (Program 3) |
| § 68.67 (c)(2) The findings from all incident investigations required under § 68.81, as well as any other potential failure scenarios; | Replaces the phrasing “The identification of any previous incident which had a likely potential for catastrophic consequences.” | During your next PHA ensure that these issues are addressed. This should already be occurring.  |
| § 68.67 (c)(8) For processes in NAICS 322, 324, and 325, safer technology and alternative risk management measures applicable to eliminating or reducing risk from process hazards. (i) The owner or operator shall consider, in the following order of preference inherently safer technology or design, passive measures, active measures, and procedural measures. A combination of riskmanagement measures may be used to achieve the desired risk reduction. (ii) The owner or operator shall determine the practicability of the inherently safer technologies and designs considered. | News requirements for NAICS codes in the 322 (paper manufacturing), 324 (petroleum and coal products manufacturing), and 325 (chemical manufacturing) industries.  | Update the Process Hazard Analysis element guidelines to include / reference these provisions.If you are outside these NAICS codes, a statement in the element guidelines stating that these provisions don’t apply to you should be sufficient.  |
| § 68.71 Training. |
| (d) For the purposes of this section, the term employee also includes supervisors with process operational responsibilities.  | This is new text that makes it explicit that supervisors with process operational responsibilities are to be trained in an overview of the process and operating procedures just like a process operator. | Check the wording in your Training element guidelines and ensure that you are training all appropriate personnel based on their *function* rather than their title. |
| § 68.79 Compliance audits. (Program 3) |
| § 68.79 (a) The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart for each covered process, at least every three years to verify that the procedures and practices developed under the rule are adequate and are being followed. When required as set forth in paragraph (f) of this section, the compliance audit shall be a third-party audit. | Adds a new requirement for a third-party audit in certain circumstances outlined in § 68.79(f).  | Update the Incident Investigation and Compliance Audit element guidelines to include / reference these provisions. |
| § 68.79 (f) Third-party audit applicability. The next required compliance audit shall be a third-party audit when one of the following conditions apply: (1) An accidental release meeting the criteria in § 68.42(a) from a covered process at a stationarysource has occurred; or (2) An implementing agency requires a third-party audit due to conditions at the stationary source that could lead to an accidental release of a regulated substance, or when a previous third-party audit failed to meet the competency or independence criteria of § 68.80(c). | You must have a third-party audit if you have an accidental release meeting the criteria in § 68.42(a) -OR- if the implementing agency requires it. You can appeal a determination made by the implementing agency as outlined in § 68.79(g) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.79(g) Implementing agency notification and appeals. | I’ve not added this text because it is several paragraphs explaining the multiple levels of the appeal process.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.79 (h) Schedule for conducting a third-party audit. The audit and audit report shall be completed as follows, unless a different timeframe is specified by the implementing agency: (1) For third-party audits required pursuant to paragraph (f)(1) of this section, within 12 months of the release; or (2) For third-party audits required pursuant to paragraph (f)(2) of this section, within 12 months of the date of the final determination pursuant to paragraph (g)(3) of this section. However, if the final determination is appealed pursuant to paragraph (g)(4) of this section, within 12 months of the date of thefinal decision on the appeal. | If a third-party audit is required, you will have 12 months to complete it. | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80 Third-party audits. (Program 3) |
| § 68.80(a) Applicability. The owner or operator shall engage a third-party to conduct an audit that evaluates compliance with the provisions of this subpart in accordance with the requirements of thissection when either criterion of § 68.79(f) is met. | Just a restatement that these are the rules concerning third-party results.  | Update the Incident Investigation and Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(b) Third-party auditors and auditing teams. The owner or operator shall either:(1) Engage a third-party auditor meeting all of the competency and independence criteria in paragraph (c) of this section; or (2) Assemble an auditing team, led by a third-party auditor meeting all of the competency and independence criteria in paragraph (c) of this section. The team may include: (i) Other employees of the third-party auditor firm meeting the independence criteria of paragraph (c)(2) of this section; and(ii) Other personnel not employed by the third-party auditor firm, including facility personnel. | You can make up the auditing team from a mix of in-house and external employees but all outside personnel must meet the independence criteria in § 68.80(c).  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c) Third-party auditor qualifications. The owner or operator shall determine and document that the third-party auditor(s) meet the following competency and independence requirements:(1) Competency requirements. The third-party auditor(s) shall be: (i) Knowledgeable with the requirements of this part;(ii) Experienced with the stationary source type and processes being audited and applicable recognized and generally accepted good engineering practices; and(iii) Trained and/or certified in proper auditing techniques. | The owner or operator must determine and *document* that their third-party auditor knows the requirements of this section, the type of process including its RAGAGEP and is trained / certified in proper auditing techniques. A stand-alone certification of these requirements backed by a quality “Statement of Qualifications” of the auditing team in the report should meet these requirements.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall:(i) Act impartially when performing all activities under this section; | Self-explanatory: The third-party auditors must be unbiased and impartial when conducting the audit.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall: (ii) Receive no financial benefit from the outcome of the audit, apart from payment for auditing services. For purposes of this paragraph, retired employees who otherwise satisfy the third-party auditor independence criteria in this section may qualify as independent if their sole continuing financial attachments to the owner or operator are employer-financed or managed retirement and/or health plans; | The third-party auditors can be paid for the audit, but as you’ll soon see they won’t be conducting any other type of work for you.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall: (iii) Not have conducted past research, development, design, construction services, or consultingfor the owner or operator within the last two years. For purposes of this requirement, consulting does not include performing or participating in third-party audits pursuant to § 68.59 or § 68.80. An audit firm with personnel who, before working for the auditor, conducted research, development, design, construction, or consulting services for the owner or operator within the last two years as an employee or contractor may meet the requirements of this subsection by ensuring such personnel do not participate inthe audit, or manage or advise the audit team concerning the audit; | The third-party auditors cannot have conducted past research, development, design, construction services, or consultingfor the owner or operator within the last two years. This does NOT include these types of audits. Note that this disqualifies an *auditor* not the entire firm. You can have employees of the auditing firm that have performed work for the facility within the last two years, if they don’t participate in the audit, or manage or advise the audit team concerning the audit.Also, in an explanatory note on page #85, the EPA states the team may include “Other personnel not employed by the third-party auditor firm (e.g. facility personnel or employees of another consulting firm with specialized expertise). These personnel are not required to meet the competency and/or independence criteria of the rule.” This guidance contradicts a literal reading of the rule. | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall: (iv) Not provide other business or consulting services to the owner or operator, including adviceor assistance to implement the findings or recommendations in an audit report, for a period of at least two years following submission of the final audit report; | The third-party auditors cannot work for the facility for two years **after** the audit. They can’t even give you advice on implementing recommendations. See Note on §68.80(c)(2)(iii) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall: (v) Ensure that all third-party personnel involved in the audit sign and date a conflict of interest statement documenting that they meet the independence criteria of this paragraph; and | The third-party auditors must document their independence – essentially opening them up to legal liability.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(2) Independence requirements. The third-party auditor(s) shall: (vi) Ensure that all third-party personnel involved in the audit do not accept future employment with the owner or operator of the stationary source for a period of at least two years following submission of the final audit report. For purposes of this requirement, employment does not include performing or participating in third-party audits pursuant to § 68.59 or § 68.80. | The third-party auditors cannot accept employment with the *owner/operator* of the facility for at least two years although they can continue to perform these third-party audits. See Note on § 68.80(c)(2) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(c)(3) The auditor shall have written policies and procedures to ensure that all personnel comply with the competency and independence requirements of this section. | The auditor must have written policies on meeting the requirements of the entire § 68.59(c) section.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(d) Third-party auditor responsibilities. The owner or operator shall ensure that the third-party auditor: (1) Manages the audit and participates in audit initiation, design, implementation, and reporting; (2) Determines appropriate roles and responsibilities for the audit team members based on the qualifications of each team member; (3) Prepares the audit report and where there is a team, documents the full audit team’s views in the final audit report;(4) Certifies the final audit report and its contents as meeting the requirements of this section; and (5) Provides a copy of the audit report to the owner or operator. | The owner / operator is responsible for ensuring the third-party auditor does their job.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(e) Audit report. The audit report shall: (1) Identify all persons participating on the audit team, including names, titles, employers and/or affiliations, and summaries of qualifications. For third-party auditors, include information demonstratingthat the competency requirements in paragraph (c)(1) of this section are met; | Self-explanatory.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(e) Audit report. The audit report shall: (2) Describe or incorporate by reference the policies and procedures required under paragraph (c)(3) of this section; | The report must include or reference the third-party’s written policies on meeting all the requirements of § 68.80(c)(3). Personally, I’d make them include them in an appendix.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(e) Audit report. The audit report shall: (3) Document the auditor’s evaluation, for each covered process, of the owner or operator’s compliance with the provisions of this subpart to determine whether the procedures and practices developed by the owner or operator under this rule are adequate and being followed. (4) Document the findings of the audit, including any identified compliance or performance deficiencies; | This seems like it is requiring the auditor to document compliance for all sections whether there were findings or not. It had been quite acceptable to only document the findings / recommendations themselves in the past. My guess is that this is much more like a “consent decree” audit where you must explicitly document compliance/non-compliance for each part of the law.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(e) Audit report. The audit report shall: (5) Summarize any significant revisions (if any) between draft and final versions of the report; and | Self-explanatory. If you make changes between the “draft” and “final” version of the report then you need to document what they were.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(e) Audit report. The audit report shall: (6) Include the following certification, signed and dated by the third-party auditor or third-party audit team member leading the audit: *“I certify that this RMP compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted and this report was prepared pursuant to the requirements of subpart D of 40 CFR part 68 and all other applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, and inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete.”* | Certification of these third-party audits is done (in part) by the auditor. Seems like a good way for the EPA to establish criminal liability for errant auditors.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(f) Third-party audit findings. (1) Findings response report. As soon as possible, but no later than 90 days after receiving the final audit report, the owner or operator shall determine an appropriateresponse to each of the findings in the audit report, and develop a findings response report… | The owner/operator has 90 days from receiving the report, they must provide a written response to each finding including a schedule for promptly addressing deficiencies.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(f)(1)(iv) A certification, signed and dated by a senior corporate officer, or an official in an equivalent position, of the owner or operator of the stationary source, stating: *“I certify under penalty of law that I have engaged a third-party to perform or lead an audit team to conduct a third-party audit in accordance with the requirements of 40 CFR 68.59 and that the attached RMP compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, consistent with the requirements of subpart D of 40 CFR part 68, as documented herein. Based on my personal knowledge and experience, or inquiry of personnel involved in evaluating the report findings and determining appropriate responses to the findings, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.”* | Certification of these third-party audits is also done by the owner/operator. Seems like a good way for the EPA to establish criminal liability.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(f)(2) Schedule implementation. The owner or operator shall implement the schedule to address deficiencies identified in the audit findings response report in paragraph (f)(1)(iii) of this section anddocument the action taken to address each deficiency, along with the date completed. | Self-explanatory. Document what was done to address findings.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(f)(3) Submission to Board of Directors. The owner or operator shall immediately provide a copy of each document required under paragraphs (f)(1) and (f)(2) of this section, when completed, to the owner or operator’s audit committee of the Board of Directors, or other comparable committee or individual, if applicable | Seems like a good way for the EPA to establish criminal liability. | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.80(g) Recordkeeping. The owner or operator shall retain at the stationary source, the two most recent final third-party audit reports, related findings response reports, documentation of actions taken to address deficiencies, and related records.  | Retain the last two third-party audit reports and their associated documents. (Note: there is no 5yr limit like a Program 2 process) | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.81 Incident investigation. (Program 3) |
| § 68.81 (a) The owner or operator shall investigate each incident that:(1) Resulted in a catastrophic release (including when the affected process is decommissioned or destroyed following, or as the result of, an incident); or (2) Could reasonably have resulted in a catastrophic release (i.e., was a near miss). | Replaces the old wording of “resulted in, or could reasonably have resulted in a catastrophic release.” It provides a little more clarity but good practitioners have already been doing this.  | Update the Incident Investigation element guidelines to include / reference these provisions. |
| § 68.60 (d) A report shall be prepared at the conclusion of the investigation. The report shall be completed within 12 months of the incident, unless the implementing agency approves, in writing, an extension of time. The report shall include: (1) Date, time, and location of incident; (2) Date investigation began; (3) A description of the incident, in chronological order, providing all relevant facts; (4) The name and amount of the regulated substance involved in the release (e.g., fire, explosion, toxic gas loss of containment) or near miss and the duration of the event; (5) The consequences, if any, of the incident including, but not limited to: injuries, fatalities, the number of people evacuated, the number of people sheltered in place, and the impact on the environment;(6) Emergency response actions taken;(7) The factors that contributed to the incident including the initiating event, direct and indirect contributing factors, and root causes. Root causes shall be determined by conducting an analysis for each incident using a recognized method; and (8) Any recommendations resulting from the investigation and a schedule for addressing them. | This is a complete rewrite of this section but it is self-explanatory. Good incident investigations (and their reports) already do these things.  | Update the Compliance Audit element guidelines to include / reference these provisions. |
| § 68.90 Emergency Response - Applicability. |  |
| § 68.90(a) Responding stationary source. Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of §§ 68.93, 68.95, and 68.96. | References the new Emergency Response sections.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. |
| § 68.90(b)(4) The owner or operator performs the annual emergency response coordination activities required under § 68.93; and(5) The owner or operator performs the annual notification exercises required under § 68.96(a). | Two new requirements for non-responding facilities.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement coordination within ONE YEAR and notification exercises within FOUR YEARS.  |
| § 68.93 Emergency response coordination activities. (NEW section) |  |
| § 68.93 The owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance. | Self-explanatory. This entire section requires a more affirmative pro-active outreach to local emergency planning and response organizations than we typically see.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within ONE YEAR. |
| § 68.93(a) Coordination shall occur at least annually, and more frequently if necessary, to address changes: at the stationary source; in the stationary source’s emergency response and/or emergency action plan; and/or in the community emergency response plan. | Self-explanatory.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within ONE YEAR. |
| § 68.93(b) Coordination shall include providing to the local emergency planning and response organizations: the stationary source’s emergency response plan if one exists; emergency action plan; updated emergency contact information; and any other information that local emergency planning and response organizations identify as relevant to local emergency response planning. For responding stationary sources, coordination shall also include consulting with local emergency response officials toestablish appropriate schedules and plans for field and tabletop exercises required under § 68.96(b). The owner or operator shall request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss these materials. | Self-explanatory. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within ONE YEAR. |
| § 68.93 (c) The owner or operator shall document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities. | Self-explanatory. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within ONE YEAR. |
| 68.95 Emergency response program. |  |
| 68.95(a)(1)(i) Procedures for informing the public and the appropriate Federal, state, and local emergency response agencies about accidental releases; | Adds *appropriate* Federal & State agencies to the list.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within FOUR YEARS. |
| 68.95(a)(4) The owner or operator shall review and update the plan as appropriate based on changes at the stationary source or new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information, and ensure that employees are informed of the changes. | Adds an update requirement for “new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information”  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement alongside your coordination efforts and drills. |
| 68.95(a)(c) The emergency response plan developed under paragraph (a)(1) of this section shall be coordinated with the community emergency response plan developed under 42 U.S.C. 11003. Uponrequest of the LEPC or emergency response officials, the owner or operator shall promptly provide to the local emergency response officials information necessary for developing and implementing thecommunity emergency response plan | No real changes here other than using the LEPC acronym.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement alongside your coordination efforts and drills. |
| § 68.96 Emergency response exercises. (New Section) |  |
| § 68.96(a) Notification exercises. At least once each calendar year, the owner or operator of a stationary source with any Program 2 or Program 3 process shall conduct an exercise of the stationary source’s emergency response notification mechanisms required under § 68.90(a)(2) or § 68.95(a)(1)(i), asappropriate. Owners or operators of responding stationary sources may perform the notification exercise as part of the tabletop and field exercises required in § 68.96(b). The owner/operator shall maintain a written record of each notification exercise conducted over the last five years. | Self-explanatory new requirement.  | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within FOUR YEARS. |
| § 68.96(b) Emergency response exercise program. The owner or operator of a stationary source subject to the requirements of § 68.95 shall develop and implement an exercise program for its emergencyresponse program, including the plan required under § 68.95(a)(1). Exercises shall involve facility emergency response personnel and, as appropriate, emergency response contractors. When planningemergency response field and tabletop exercises, the owner or operator shall coordinate with local public emergency response officials and invite them to participate in the exercise… | Self-explanatory new requirement. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within FOUR YEARS. |
| § 68.96(b) …The emergency response exercise program shall include: (1) Emergency response field exercises. The owner or operator shall conduct field exercisesinvolving the simulated accidental release of a regulated substance (i.e., toxic substance release or release of a regulated flammable substance involving a fire and/or explosion).(i) Frequency. As part of coordination with local emergency response officials required by § 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for field exercises, but at a minimum, shall conduct a field exercise at least once every ten years. (ii) Scope. Field exercises shall include: tests of procedures to notify the public and the appropriate Federal, state, and local emergency response agencies about an accidental release; tests of procedures and measures for emergency response actions including evacuations and medical treatment; tests of communications systems; mobilization of facility emergency response personnel, including contractors, as appropriate; coordination with local emergency responders; emergency responseequipment deployment; and any other action identified in the emergency response program, as appropriate. | Self-explanatory new requirement. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within FOUR YEARS. |
| § 68.96(b) …The emergency response exercise program shall include: (2) Tabletop exercises. The owner or operator shall conduct a tabletop exercise involving the simulated accidental release of a regulated substance. (i) Frequency. As part of coordination with local emergency response officials required by § 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for tabletop exercises, but at a minimum, shall conduct a field exercise at least once every three years. (ii) Scope. The exercise shall include discussions of: procedures to notify the public and the appropriate Federal, state, and local emergency response agencies; procedures and measures for emergency response including evacuations and medical treatment; identification of facility emergency response personnel and/or contractors and their responsibilities; coordination with local emergency responders; procedures for emergency response equipment deployment; and any other action identified in the emergency response plan, as appropriate | Self-explanatory new requirement. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement within FOUR YEARS. (Note that the tabletop is every three years and the field exercise is every 10 years) |
| § 68.96(b) …The emergency response exercise program shall include: (3) Documentation. The owner/operator shall prepare an evaluation report within 90 days of eachexercise. The report shall include: a description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations forimprovement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.  | Self-explanatory new requirement. | Update the Emergency Action / Response element guidelines and the appropriate plans to include / reference these provisions. Implement alongside coordination and drills. |
| § 68.96(c) Alternative means of meeting exercise requirements. The owner or operator may satisfy the requirement to conduct notification, field and/or tabletop exercises through: (1) Exercises conducted to meet other Federal, state or local exercise requirements, provided the exercise meets the requirements of paragraphs (a) and/or (b) of this section, as appropriate. (2) Response to an accidental release, provided the response includes the actions indicated inparagraphs (a) and/or (b) of this section, as appropriate. When used to meet field and/or tabletop exercise requirements, the owner or operator shall prepare an after-action report comparable to the exercise evaluation report required in paragraph (b)(3) of this section, within 90 days of the incident. | Self-explanatory new requirement. | Update the Emergency Action / Response & Incident Investigation element guidelines and the appropriate plans to include / reference these provisions. Implement alongside coordination and drills. |
| § 68.130 List of substances. |
| § 68.130 Table 1 - Changed Allyl alcohol CAS No. to the correct one 107-18-6 | Self-explanatory | Modify your program if these changes affect you.  |
| § 68.130 Table 4 Modified list of flammables | Self-explanatory | Modify your program if these changes affect you. |
| § 68.160 Registration. |
| § 68.160(b)(21) Method of communication and location of the notification that chemical hazard information is available to the public, pursuant to § 68.210(c); and | Self-explanatory new requirement in RMP filing.  | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.160(b)(22) Whether a public meeting has been held following an RMP reportable accident, pursuant to §68.210(e). | Self-explanatory new requirement in RMP filing. | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.170 Prevention program/Program 2 |
| § 68.170(i) The date of the most recent compliance audit, the expected date of completion of any changes resulting from the compliance audit, and identify whether the most recent compliance audit was a third-party audit, pursuant to §§ 68.58 and 68.59. | Modified filing requirement to add third-party audits.  | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.170(j) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation | Modified requirement in RMP filing. Now reporting completion date of the last Incident Investigation.  | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.175 Prevention program/Program 3. |
| § 68.175(e) The most recent process hazard analysis (PHA) or PHA update and revalidation information, pursuant to § 68.67, including: (1) The date of completion of the most recent PHA or update and the technique used; (5) Monitoring and detection systems in use; (6) Changes since the last PHA; and (7) Inherently safer technology or design measures implemented since the last PHA, if any, and the technology category (substitution, minimization, simplification and/or moderation) | Modified filing requirement to add inherently safer technology issues  | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.175(k) The date of the most recent compliance audit, the expected date of completion of any changes resulting from the compliance audit, and identify whether the most recent compliance audit was a third-party audit, pursuant to §§ 68.79 and 68.80. | Modified filing requirement to add third-party audits. | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.175(l) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation. | Modified requirement in RMP filing. Now reporting completion date of the last Incident Investigation. | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.180 Emergency response program and exercises |
| § 68.180(a) The owner or operator shall provide in the RMP: (1) Name, organizational affiliation, phone number, and e-mail address of local emergency planning and response organizations with which the stationary source last coordinated emergencyresponse efforts, pursuant to § 68.10(f)(3) or § 68.93; (2) The date of the most recent coordination with the local emergency response organizations, pursuant to § 68.93 and (3) A list of Federal or state emergency plan requirements to which the stationary source is subject. | While this section is reorganized, the only new RMP reporting requirement seems to be the date of “coordination” required under § 68.93 | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.180(b) The owner or operator shall identify in the RMP whether the facility is a responding stationary source or a non-responding stationary source, pursuant to § 68.90. (1) For non-responding stationary sources, the owner or operator shall identify: (i) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, whether the stationary source is included in the community emergency response plan developedunder 42 U.S.C. 11003, pursuant to § 68.90(b)(1); (ii) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the date of the most recent coordination with the local fire department, pursuant to §68.90(b)(2); (iii) What mechanisms are in place to notify the public and emergency responders when there is a need for emergency response; and (iv) The date of the most recent notification exercise, as required in § 68.96(a). | While this section is reorganized, the only new RMP reporting requirement seems to be the notification exercise, as required in § 68.96(a). | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.180(b)(2) For responding stationary sources, the owner or operator shall identify:(i) The date of the most recent review and update of the emergency response plan, pursuant to §68.95(a)(4); (ii) The date of the most recent notification exercise, as required in § 68.96(a); (iii) The date of the most recent field exercise, as required in § 68.96(b)(1); and(iv) The date of the most recent tabletop exercise, as required in § 68.96(b)(2) | While this section is reorganized, the only new RMP reporting requirement seems to be the date of the field exercise required under § 68.96(b)(1); and the date of the most recent tabletop exercise, as required in § 68.96(b)(2) | Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| 68.190 Updates. |
| 68.190 (c) Prior to de-registration the owner or operator shall meet applicable reporting and incident investigation requirements in accordance with §§ 68.42, 68.60, and/or 68.81 | If you are going to de-register a facility, you must meet any obligations under the Five-Year Accident History and Incident Investigation element before doing so.  | Update your Incident Investigation / RMP element guidelines. Implement within FOUR YEARS. (Other RMP data elements require Five Years – easiest to just update them all at your next refiling or when they are updated.) |
| § 68.200 Recordkeeping. |
| The owner or operator shall maintain records supporting the implementation of this part at the stationary source for five years, unless otherwise provided in subpart D of this part. | Explicit requirement that the records are kept “at the stationary source.” Please keep backups off-site.  | Update your document retention policy / policies. Implement within FOUR YEARS.  |
| § 68.210 Availability of information to the public.  |
| § 68.210(a) RMP availability. The RMP required under subpart G of this part shall be available to the public under 42 U.S.C. 7414(c) and 40 CFR part 1400. | Added the 40CFR1400 reference | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210(b) Chemical hazard information. The owner or operator of a stationary source shall provide, upon request by any member of the public, the following chemical hazard information for all regulated processes, as applicable: (1) Regulated substances information. Names of regulated substances held in a process; (2) Safety data sheets (SDS). SDSs for all regulated substances located at the facility; (3) Accident history information. Provide the five-year accident history information required to be reported under § 68.42; … | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210(b) Chemical hazard information. The owner or operator of a stationary source shall provide, upon request by any member of the public, the following chemical hazard information for all regulated processes, as applicable:… (4) Emergency response program. The following summary information concerning the stationary source’s compliance with § 68.10(f)(3) or the emergency response provisions of subpart E: (i) Whether the stationary source is a responding stationary source or a non-responding stationary source; (ii) Name and phone number of local emergency response organizations with which the owner or operator last coordinated emergency response efforts, pursuant to § 68.180; and (iii) For stationary sources subject to § 68.95, procedures for informing the public and local emergency response agencies about accidental releases; (5) Exercises. A list of scheduled exercises required under § 68.96; and (6) LEPC contact information. Include LEPC name, phone number, and web address as available. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210(c) Notification of availability of information. The owner or operator shall provide ongoing notification on a company website, social media platforms, or through other publicly accessible means that:(1) Information specified in paragraph (b) of this section is available to the public upon request. The notification shall:(i) Specify the information elements, identified in paragraph (b) of this section, that can be requested; and(ii) Provide instructions for how to request the information (e.g. email, mailing address, and/or telephone or website request);(2) Identify where to access information on community preparedness, if available, including shelter-in-place and evacuation procedures. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210 (d) Timeframe to provide requested information. The owner or operator shall provide the requested information under paragraph (b) of this section within 45 days of receiving a request from any member of the public. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210 (e) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under § 68.42 as well as other relevant chemical hazard information, such as that described in paragraph (b) of this section, no later than 90 days after any accident subject to reporting under § 68.42. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210 (f) Classified information. The disclosure of information classified by the Department of Defense or other Federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of classified information. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |
| § 68.210(g) CBI. An owner or operator asserting CBI for information required under this section shall provide a sanitized version to the public. Assertion of claims of CBI and substantiation of CBI claims shall be in the same manner as required in 40 CFR 68.151 and 68.152 for information contained in the RMP required under subpart G. As provided under 40 CFR 68.151(b)(3), an owner or operator of a stationary source may not claim five-year accident history information as CBI. As provided in 40 CFR 68.151(c)(2), an owner or operator of a stationary source asserting that a chemical name is CBI shall provide a generic category or class name as a substitute. | New section essentially means you must provide all this information on the RMP covered process to the public upon their request.  | Update your RMP element guidelines. Implement within FOUR YEARS. |