

APPENDIX A TO PART 68—TABLE OF TOXIC ENDPOINTS—Continued
 [As defined in § 68.22 of this part]

CAS No.	Chemical name	Toxic endpoint (mg/L)
10102-43-9	Nitric oxide [Nitrogen oxide (NO)]	0.031
8014-95-7	Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide]	0.010
79-21-0	Peracetic acid [Ethaneperoxoic acid]	0.0045
594-42-3	Perchloromethylmercaptan [Methanesulphenyl chloride, trichloro-]	0.0076
75-44-5	Phosgene [Carbonic dichloride]	0.00081
7803-51-2	Phosphine	0.0035
10025-87-3	Phosphorus oxychloride [Phosphoryl chloride]	0.0030
7719-12-2	Phosphorus trichloride [Phosphorous trichloride]	0.028
110-89-4	Piperidine	0.022
107-12-0	Propionitrile [Propanenitrile]	0.0037
109-61-5	Propyl chloroformate [Carbonochloridic acid, propylester]	0.010
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	0.12
75-56-9	Propylene oxide [Oxirane, methyl-]	0.59
7446-09-5	Sulfur dioxide (anhydrous)	0.0078
7783-60-0	Sulfur tetrafluoride [Sulfur fluoride (SF ₄), (T-4)-]	0.0092
7446-11-9	Sulfur trioxide	0.010
75-74-1	Tetramethyllead [Plumbane, tetramethyl-]	0.0040
509-14-8	Tetranitromethane [Methane, tetranitro-]	0.0040
7750-45-0	Titanium tetrachloride [Titanium chloride (TiCl ₄) (T-4)-]	0.020
584-84-9	Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-]	0.0070
91-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-]	0.0070
26471-62-5	Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-]	0.0070
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	0.050
108-05-4	Vinyl acetate monomer [Acetic acid ethenyl ester]	0.26

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40 CFR Part 68

[FRL-5516-6]

List of Regulated Substances and Thresholds for Accidental Release Prevention; Final Rule—Stay of Effectiveness

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 15, 1996, the Environmental Protection Agency (EPA) proposed several modifications to provisions of the rule listing regulated substances and establishing threshold quantities under section 112(r) of the Clean Air Act as amended (List Rule Amendments). The proposed List Rule Amendments, if promulgated in a final rule, would clarify or establish that part 68 does not apply to several types of processes and sources. In addition, EPA proposed, pursuant to Clean Air Act section 301(a)(1), 42 U.S.C. 7601(a)(1), to stay the effectiveness of provisions that would be affected by the proposed List Rule Amendments, for so long as necessary to take final action on the proposed List Rule Amendments. EPA received no adverse public comment on the short-term stay. Today EPA is amending part 68 to promulgate the

stay, under which owners and operators of processes and sources that EPA has proposed not be subject to part 68 would not become subject to part 68 until EPA has determined whether to proceed with the List Rule Amendments. The effect of today's action will be to give owners and operators of sources affected by the proposed List Rule Amendments the same amount of time to achieve compliance with the requirements of part 68 as owners and operators of other sources in the event that EPA does not proceed with the List Rule Amendments as proposed.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Vanessa Rodriguez, Chemical Engineer, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency (5101), 401 M St. SW., Washington, DC 20460, (202) 260-7913.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

On April 15, 1996, EPA proposed amendments to regulations in 40 CFR part 68 that, inter alia, list regulated substances and establish threshold quantities for the accident prevention provisions under Clean Air Act section 112(r). 61 FR 16598. Readers should refer to that document for a complete discussion of the background of the rule affected. The amendments proposed in

that document ("List Rule Amendments") would, if promulgated, delete explosives from the list of regulated substances, modify threshold provisions to exclude flammable substances in gasoline and in naturally occurring hydrocarbon mixtures prior to entry into a processing unit or plant, modify the threshold provisions for other flammable mixtures, and clarify the definition of stationary source with respect to transportation, storage incident to transportation, and naturally occurring hydrocarbon reservoirs.

On the same date, EPA proposed to stay provisions of part 68 that were affected by the proposed List Rule Amendments until such time as EPA takes final action on the proposed List Rule Amendments. 61 FR 16606. EPA proposed a stay of 18 months because it believed such a period would be sufficient to take final action on the List Rule Amendments and believed that owners and operators affected by the List Rule Amendments should have the same certainty about whether they are subject to part 68 as owners and operators of other sources have when they begin their regulatory compliance planning. In general, owners and operators of sources subject to the "Risk Management Program" final rule promulgated elsewhere in today's Federal Register, have three years from today to achieve compliance with part 68.

EPA received seven comment letters on the proposed stay; all generally supported EPA's action. The Agency's response to comments is contained below. Three commenters suggested that EPA should promulgate a stay for so long as it takes the Agency to take final action on the List Rule Amendments rather than for a certain (18 month) time period. The 18 month time period was selected to be consistent with the time period provided for final action on amendments discussed in the settlement of litigation concerning the List Rule. EPA believes this time will be sufficient to take any necessary action. Another commenter expressed concern that the stay would not affect statutory deadlines for seeking judicial review of the final Risk Management Program rule. EPA has not taken final action on the Risk Management Program rule's applicability to stationary sources, mixtures containing regulated flammable substances, and regulated explosive substances that are subject to today's stay. In the event that the Agency does not promulgate the List Rule Amendments, the Agency intends to take final action on applying the Risk Management Program to the sources, mixtures, and substances to be regulated. In the absence of final action on the Risk Management Program rule as it applies to these sources, mixtures, and substances, a petition seeking review of that rule would be premature.

Under the provisions of section 307(b)(1) of the Clean Air Act, a petition for judicial review of this stay may only be filed in the United States Court of Appeals for District of Columbia Circuit within 60 days of today's publication of this action.

II. Required Analyses

A. E.O. 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must judge whether the regulatory action is "significant," and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or state, local, or tribal government or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

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

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

It has been determined this final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and therefore is not subject to OMB review.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act of 1980, Federal agencies must evaluate the effects of this final rule on small entities and examine alternatives that may reduce these effects. EPA has examined this final rule's potential effects on small entities as required by the Regulatory Flexibility Act. It has determined that this rule will have no adverse effect on small entities because it defers the need for stationary sources to comply with current rule provisions that EPA has proposed to amend; the amendments, if adopted, likely would reduce the number of stationary sources subject to the accidental release prevention requirements. Therefore, I certify that today's final stay of effectiveness rule will not have a significant economic effect on a substantial number of small entities.

C. Paperwork Reduction Act

This final rule does not include any information collection requirements for OMB to review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has estimated that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 68

Environmental protection, Chemicals, Chemical accident prevention, Clean Air Act, Extremely hazardous substances, Intergovernmental relations, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 24, 1996.

Carol M. Browner,
Administrator.

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

PART 68—ACCIDENTAL RELEASE PREVENTION PROVISIONS

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

Authority: 42 U.S.C. 7412(r), 7601.

2. In Subpart A, Sec. 68.2 is added to read as follows:

§ 68.2 Stayed Provisions.

(a) Notwithstanding any other provision of this part, the effectiveness of the following provisions is stayed from March 2, 1994 to December 22, 1997.

(1) In Sec. 68.3, the definition of "stationary source," to the extent that such definition includes naturally occurring hydrocarbon reservoirs or transportation subject to oversight or regulation under a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. 60105;

(2) Section 68.115(b)(2) of this part, to the extent that such provision requires an owner or operator to treat as a regulated flammable substance:

(i) Gasoline, when in distribution or related storage for use as fuel for internal combustion engines;

(ii) Naturally occurring hydrocarbon mixtures prior to entry into a petroleum refining process unit or a natural gas processing plant. Naturally occurring hydrocarbon mixtures include any of

the following: condensate, crude oil, field gas, and produced water, each as defined in paragraph (b) of this section;

(iii) Other mixtures that contain a regulated flammable substance and that do not have a National Fire Protection Association flammability hazard rating of 4, the definition of which is in the NFPA 704, Standard System for the Identification of the Fire Hazards of Materials, National Fire Protection Association, Quincy, MA, 1990, available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101; and

(3) Section 68.130(a).

(b) From March 2, 1994 to December 22, 1997, the following definitions shall apply to the stayed provisions described in paragraph (a) of this section:

Condensate means hydrocarbon liquid separated from natural gas that condenses because of changes in temperature, pressure, or both, and remains liquid at standard conditions.

Crude oil means any naturally occurring, unrefined petroleum liquid.

Field gas means gas extracted from a production well before the gas enters a natural gas processing plant.

Natural gas processing plant means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of natural gas liquids to natural gas products, or both. A separator, dehydration unit, heater treater, sweetening unit, compressor, or similar equipment shall not be considered a "processing site" unless such equipment is physically located within a natural gas processing plant (gas plant) site.

Petroleum refining process unit means a process unit used in an establishment primarily engaged in petroleum refining as defined in the Standard Industrial Classification code for petroleum refining (2911) and used for the following: Producing transportation fuels (such as gasoline,

diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; separating petroleum; or separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

Produced water means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

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