

Industry category	NAICS code
Petroleum Bulk Stations and Terminals	42271
Automotive Rental and Leasing	5321
Heating Oil Dealers	454311
Transportation (including Pipelines), Warehousing, and Marinas	482–486/488112–48819/4883/ 48849/492–493/71393
Elementary and Secondary Schools, Colleges	6111–6113
Hospitals/Nursing and Residential Care Facilities	622–623

The list of potentially affected entities in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities not listed in the table. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**

III. Statutory Authority

33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351

IV. Background

On July 17, 2002, at 67 FR 47042, EPA published final amendments to the Spill Prevention, Control, and Countermeasure (SPCC) rule. The rule was effective August 16, 2002. The rule included dates in § 112.3(a) and (b), by which a facility would have time to amend its SPCC Plan and implement its amended Plan (note that for facilities becoming operational after August 16, 2002, the rule contains dates for the preparation and implementation of a Plan in compliance with the amended rule). In light of new information, we have decided to extend those dates for a period of sixty days.

V. Today's Action

EPA is extending for a period of sixty days the dates in § 112.3(a) and (b). Since the promulgation of the SPCC rule in July 2002, EPA has received numerous complaints that the deadlines in the rule do not allow enough time for the regulated community to undertake the actions necessary to update (or prepare) their Plans in accordance with the amendments. Among the reasons given are that there is a shortage of Professional Engineers (PEs) in some areas, the need for the PE or his agent to make visits at sometimes remote facilities, and the need for the PE to certify that Plans meet requirements for which they have not yet had adequate training. It has also become apparent that unless the Agency issues this interim final rule, we will receive an

overwhelming number of requests for individual extensions under 40 CFR 112.3(f). Thus, the Agency believes that the present compliance dates are too short, and it would be an inefficient use of scarce Agency resources to address this problem by processing a great number of individual extension requests. Because the first deadline in the rule is February 17, 2003, the Agency believes that immediate, near-term relief is needed, and is therefore extending the current deadlines by sixty days.

We are issuing this interim final rule in conjunction with a concurrent proposal (published elsewhere in this issue of the **Federal Register**) to extend by one year the dates in § 112.3(a) and (b). We believe a sixty-day extension is needed as quickly as possible to avoid potential confusion for facility owners and unnecessary administrative burdens on the Agency. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). EPA believes that notice- and comment rulemaking before the existing compliance dates in the SPCC rule (*i.e.*, February 17, 2003) is impracticable and contrary to the public interest, inasmuch as there is insufficient time to offer meaningful opportunity for public comment and provide appropriate, considered response by the Agency. Therefore, EPA believes it is necessary to use the interim final rulemaking process to extend by sixty days the compliance dates in § 112.3(a) and (b) while we complete a notice-and-comment rulemaking process that proposes to extend these compliance dates for a period of one year. Moreover, with respect to the effective date of this interim final rule, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

VI. Statutory and Executive Order Reviews

A. Executive Order 12866—OMB Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993), the Agency must determine whether a 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 “significant regulatory action” as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments 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.

Under the terms of Executive Order 12866, it has been determined that this interim final rule is not a “significant regulatory action” because it would only extend for sixty days the compliance dates in § 112.3(a) and (b). It would have no other substantive effect.

B. Paperwork Reduction Act

This interim final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (R.F.A.) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements