

Today's rule would reduce burden and costs on all facilities.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As explained above, the effect of the rule would be to reduce burden and costs for regulated facilities, including small governments that are subject to the rule.

#### *E. Executive Order 13132—Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Under CWA section 311(o), EPA believes that States are free to impose additional requirements, including more stringent requirements, relating to the prevention of oil discharges to navigable waters. EPA encourages States to supplement the federal SPCC program and recognizes that some States have more stringent requirements. 56 FR 54612 (Oct. 22, 1991). This rule would not preempt state law or regulations. Thus, Executive Order 13132 does not apply to this rule.

#### *F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date.

Today's rule would not significantly or uniquely affect communities of Indian tribal governments. Therefore, we have not consulted with a representative organization of tribal groups.

#### *G. Executive Order 13045—Protection of Children From Environmental Health & Safety Risks*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866; and, (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under Section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

#### *H. Executive Order 13211—Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *I. National Technology Transfer and Advancement Act*

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

available and applicable voluntary consensus standards.

This rule does not involve technical standards. Therefore, NTTA is inapplicable.

#### **List of Subjects in 40 CFR Part 112**

Environmental protection, Oil pollution, Penalties, Reporting and recordkeeping requirements.

Dated: January 3, 2003.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons set out in the preamble, title 40 CFR, chapter I, part 112 of the Code of Federal Regulations, is proposed to be amended as follows:

### **PART 112—OIL POLLUTION PREVENTION**

1. The authority for part 112 continues to read as follows:

**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.

2. Section 112.3 is amended by revising paragraphs (a) and (b) to read as follows:

### **PART 112—OIL POLLUTION PREVENTION**

#### **Subpart A—Applicability, Definitions, and General Requirements for All Facilities and All Types of Oils**

##### **§ 112.3 Requirement to prepare and implement a spill prevention, control, and countermeasure plan.**

(a) If your onshore or offshore facility was in operation on or before August 16, 2002, you must maintain your Plan, but must amend it, if necessary to ensure compliance with this part, on or before February 17, 2004, and must implement the amended Plan as soon as possible, but not later than August 18, 2004. If your onshore or offshore facility becomes operational after August 16, 2002, through August 18, 2004, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare a Plan on or before August 18, 2004, and fully implement it as soon as possible, but not later than August 18, 2004.

(b) If you are the owner or operator of an onshore or offshore facility that becomes operational after August 18, 2004, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan before you begin operations.

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