

Agency only extended the deadlines in 40 CFR 112.3(a) and (b) for amending and implementing (and in some cases, preparing) Plans to come into compliance with new requirements. Thus, the commenter is correct that to the extent that the July 2002 imposes new or more stringent compliance obligations than did the old SPCC rule, that the deadlines in 40 CFR 112.3(a) and (b) for fulfillment of those obligations is extended under this final rule.

On the other hand, a provision that provides regulatory relief in the revised rule is not affected by the compliance deadline extensions because such provisions are not addressed by 40 CFR 112.3(a) or (b); these are not provisions for which it would be "necessary" to amend existing Plans "to ensure compliance with" the July 2002 amendments.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and 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 rule is not a "significant regulatory action" because it would extend for eighteen the compliance dates in § 112.3(a) and (b). It would have no other substantive effect.

B. Paperwork Reduction Act

This 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 under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 121.201—the SBA defines small businesses by category of business using North American Industry Classification System (NAICS) codes, and in the case of farms and production facilities, which constitute a large percentage of the facilities affected by this rule, generally defines small businesses as having less than \$500,000 in revenues or 500 employees, respectively; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. Sections 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This rule will temporarily reduce regulatory burden on all facilities by extending for eighteen months the compliance dates in § 112.3(a) and (b). Further, the rule will reduce costs for both existing and new facilities.

After considering the economic impacts of today's rule on small entities,

I certify that this action would not have a significant economic impact on a substantial number of small entities, because it provides temporary relief from otherwise applicable compliance deadlines.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. 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