

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 2006. Filing a petition for reconsideration by the Administrator of these final rules do not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 24, 2006.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(334) (i)(B)(2) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(334) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rules 8011, 8021, 8031, 8041, 8051, and 8061, amended on August 19, 2004 and Rules 8071 and 8081, amended on September 16, 2004.

\* \* \* \* \*

[FR Doc. 06-1413 Filed 2-16-06; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 112

[EPA-HQ-OPA-2005-0003; FRL-8033-9]

RIN 2050-AG28

#### Oil Pollution Prevention; Non-Transportation Related Onshore Facilities

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is today extending the dates by which facilities must prepare or amend Spill Prevention, Control, and Countermeasure (SPCC) Plans, and implement those Plans. This action allows the Agency time to take final action on proposed revisions to the July 17, 2002 SPCC rule before owners and operators of facilities are required to meet requirements of that rule when preparing or amending their SPCC Plans.

**DATES:** This final rule is effective February 17, 2006.

**ADDRESSES:** The public docket for this final rule, Docket ID No. EPA-HQ-OPA-2005-0003, contains the information related to this rulemaking,

including the response to comment document. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Public Reading Room is 202-566-1744, and the telephone number to make an appointment to view the docket is 202-566-0276.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 421-9810 or TDD (703) 421-3323. For more detailed information on specific aspects of this final rule, contact either Vanessa Rodriguez at (202) 564-7913 ([rodriguez.vanessa@epa.gov](mailto:rodriguez.vanessa@epa.gov)), or Mark W. Howard at (202) 564-1964 ([howard.markw@epa.gov](mailto:howard.markw@epa.gov)), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460-0002, Mail Code 5104A.

#### SUPPLEMENTARY INFORMATION:

##### I. 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.

##### II. Background

On July 17, 2002, the Agency published a final rule that amended the SPCC regulations (*see* 67 FR 47042). The rule became effective on August 16, 2002. The final rule included compliance dates in § 112.3 for preparing, amending, and implementing SPCC Plans. The original compliance dates were amended on January 9, 2003 (*see* 68 FR 1348), again on April 17, 2003 (*see* 68 FR 18890), and a third time on August 11, 2004 (*see* 69 FR 48794).

Under the regulations in effect prior to this final rule, § 112.3(a) and (b) required a facility that was in operation on or before August 16, 2002 to make any necessary amendments to its SPCC

Plan by February 17, 2006, and to fully implement its SPCC Plan by August 18, 2006. A facility that came into operation after August 16, 2002, but before August 18, 2006, was required to prepare and fully implement an SPCC Plan on or before August 18, 2006. Thus, for facilities in operation on or before August 16, 2002, the regulations provided a six-month period between the compliance date for Plan amendment and the compliance date for Plan implementation. In addition, § 112.3(c) required onshore and offshore mobile facilities to prepare or amend and implement SPCC Plans on or before August 18, 2006.

On December 12, 2005, the Agency published in the **Federal Register** a proposed rule that would amend the SPCC requirements in several areas (*see* 70 FR 73524). Specifically, the proposal would allow owners and operators of facilities with an oil storage capacity of 10,000 gallons or less, that also meet other qualifying criteria, the option of self-certification of their SPCC Plans (in lieu of review and certification by a Professional Engineer); it would provide facilities with certain types of oil-filled operational equipment an alternative to the secondary containment requirement that would not require a determination of impracticability; it would define airport mobile refuelers, and exempt such vehicles meeting the definition from the specifically sized secondary containment requirements for bulk storage containers; it would amend the requirements for animal fats and vegetable oils (AFVOs) by removing certain sections of the regulations in Subpart C of Part 112 that do not apply to facilities that handle, store, or transport AFVOs; and it would define farms, and would provide a separate extension of the compliance dates for certain farms.<sup>1</sup>

On the same day, but in a separate notice in the **Federal Register** (*see* 70 FR 73518), the Agency also proposed to extend the dates in § 112.3(a), (b), and (c) by which a facility must prepare or amend and implement its SPCC Plan. Under the proposed extension rule, a facility that was in operation on or before August 16, 2002 would have to make any necessary amendments to its SPCC Plan, and implement that Plan, on or before October 31, 2007. Likewise, a facility that came into operation after August 16, 2002 would have to prepare and implement an SPCC Plan on or before October 31, 2007. Finally, a

mobile facility would have to prepare or amend and implement an SPCC Plan on or before October 31, 2007.

The Agency's proposal to extend the compliance dates in § 112.3 (which is made final in today's notice) was designed to allow the Agency time to take final action on the proposed amendments to the SPCC requirements before owners and operators are required to prepare, amend, and implement their SPCC Plans. The Agency believed that the extension was appropriate to allow owners and operators to take advantage of any modifications that would be provided by a final SPCC amendment rule. In addition, the Agency believed that the extension would allow the regulated community the opportunity to understand the material presented in its newly released guidance "SPCC Guidance for Regional Inspectors"<sup>2</sup> before preparing or amending their SPCC Plans. Finally, the Agency believed that the proposed extension was necessary for facilities that might have difficulty meeting the upcoming compliance dates because they were adversely affected by the recent hurricanes.

### III. Summary of This Final Rule

This final rule extends the dates in § 112.3 by which owners and operators of facilities must prepare or amend their SPCC Plans as proposed. Under the new § 112.3(a), a facility that was in operation on or before August 16, 2002 must make any necessary amendments to its SPCC Plan, and implement that Plan, on or before October 31, 2007. Under the new § 112.3(b), a facility that came into operation after August 16, 2002 must also prepare and implement an SPCC Plan on or before October 31, 2007. Finally, under the new § 112.3(c), a mobile facility must prepare or amend and implement an SPCC Plan on or before October 31, 2007.

This rule is effective immediately. Section 553(d) of the Administrative Procedures Act requires 30-days notice before the effective date of a final rule. However, section 553(d)(1) allows an exception to the 30-day notice where a rule relieves a restriction. Since this final rule relieves a restriction, the

Agency invokes section 553(d)(1) to allow an immediate effective date.

It should be noted that today's compliance date extension affects only requirements of the July 2002 final SPCC rule that impose new or more stringent compliance obligations than did the 1973 SPCC rule. Any provision in the July 2002 rule that provides regulatory relief is not affected by these compliance date extensions because such provisions are not ones for which it would be "necessary" to amend existing Plans "to ensure compliance with" the July 2002 amendments (*see* § 112.3). This issue was discussed by the Agency in two previous extension notices on April 17, 2003 (*see* 68 FR 18890, at 18892-3), and on August 11, 2004 (*see* 69 FR 48794, at 48796).

### IV. Response to Comment

The Agency received approximately 80 comments on the proposed rule. The discussion below summarizes and responds to the major comments received. A more complete response to comments can be found in the docket for this rulemaking, EPA-HQ-OPA-2005-0003.

The majority of commenters supported the Agency's proposal to extend the compliance dates in § 112.3. They agreed with the Agency that the extension was necessary to allow owners and operators the opportunity to take advantage of any modifications that might be provided by an amendment to the SPCC rule (*see* discussion in section II). Of those who supported an extension of the compliance dates, some commenters agreed with extending the compliance dates as proposed, and others opposed the proposed length of the extension.

A number of commenters requested that the Agency incorporate flexibility into the compliance dates in § 112.3, by extending them until October 31, 2007, or until a date no less than one year following implementation of the final SPCC amendment rule, whichever is later. Commenters believed that, since the date for a final SPCC amendment rule is uncertain, setting a compliance date of October 31, 2007 does not guarantee owners and operators a full year between promulgation of a final rule and the compliance dates in § 112.3. These commenters believe it is important to coordinate the compliance dates in § 112.3 with a final SPCC amendment rule.

The Agency is reluctant to proceed as these commenters suggested and set uncertain compliance dates in § 112.3. At the same time, the Agency recognizes that the regulated community needs adequate time after EPA takes final

<sup>1</sup> Comments and our response to them regarding the separate extension of the compliance dates for farms will be addressed in the rulemaking that addresses the substantive modifications that were proposed for the SPCC rule on December 12, 2005.

<sup>2</sup> This guidance is intended to assist regional inspectors in reviewing a facility's implementation of the SPCC rule. The document is designed to facilitate an understanding of the rule's applicability, to help clarify the role of the inspector in the review and evaluation of the performance-based SPCC requirements, and to provide a consistent national policy on several SPCC-related issues. The guidance is available on the Agency's Web site at <http://www.epa.gov/oilspill>.

action on the proposed amendments to the SPCC Plan requirements to amend or prepare their SPCC Plans and to implement them. The Agency agrees that one year is a reasonable period of time to allow for preparing, amending, and implementing SPCC Plans following final Agency action on the proposed amendments to the SPCC rule. The Agency plans to develop and publish a **Federal Register** notice taking final action on the December 12, 2005 proposal as soon as possible. At this time, based on the information at hand, the Agency believes that extending the compliance dates in § 112.3 until October 31, 2007 will allow owners and operators an adequate interval to comply with the SPCC rule. Regarding modifications of the SPCC regulations, to the extent practicable, EPA will establish deadlines for compliance implementation that commence one year after promulgating the regulatory revisions.

Other commenters objected to the Agency's proposal to eliminate the six-month interim period in § 112.3(a) between the compliance dates for Plan amendment and implementation. Those commenters requested that the date for implementing amended SPCC Plans be revised to include a six-month period after the October 31, 2007 date for Plan amendment.

The Agency disagrees with these commenters. For the reasons discussed above, the Agency believes the October 31, 2007 date for Plan implementation is adequate. The effect of the Agency's decision to eliminate the gap between Plan preparation or amendment and implementation was to allow additional time for Plan preparation or amendment. The Agency believes that this approach, which allows owners and operators flexibility, makes sense given that owners and operators are not required to submit their SPCC Plans to the Agency.

Several commenters conditioned their support of the proposed compliance date extensions on the Agency's timely resolution of issues related to regulation of animal fats and vegetable oils (AFVOs). These commenters were concerned that the Agency has not yet developed differentiated requirements for AFVOs, and some suggested that the Agency develop a timeframe to do so.

In the December 12, 2005 SPCC amendment proposed rule, the Agency requested information that would support differentiated SPCC requirements for AFVOs (see 70 FR 73542, at 73541). The Agency is not prepared, at this time, to determine whether that request for comment will produce information that is appropriate

or adequate for development of differentiated requirements for AFVOs. Thus, the Agency believes it would be inappropriate to condition the compliance dates in § 112.3 on such uncertain factors. Further, issues specific to the regulation of AFVOs are outside the scope of this extension. The Agency will review and give full consideration to all comments it receives related to AFVOs, and address those comments when it has had a chance to assess them and any data provided.

Finally, some commenters objected to extending the compliance dates in § 112.3. Generally, those commenters believed that extension of the dates would delay development and implementation of SPCC Plans, which are necessary for protection of human health and the environment. Further, they raised concerns that extending the compliance dates only encourages non-compliance.

For example, one commenter argued that it is unnecessary and absurd to extend the compliance dates a third time. The commenter pointed out that this rule would extend compliance to a time four years after the 2002 SPCC rule should have first been effective, and almost 35 years after the SPCC rules were first promulgated. The commenter believed that facilities should already be in compliance with the 1973 rules, and consequently should be in compliance with the rule changes proposed by the Agency because they primarily reduce the requirements for regulated facilities. The commenter also believed that most regulated facilities already have developed and implemented SPCC plans to comply with the earlier compliance dates that were subsequently extended. The commenter believed that these facilities are ready to meet their obligations to prevent oil spills and other releases, and that it is entirely unnecessary to extend the compliance dates when most facilities have developed and implemented Plans. Finally, the commenter anticipated that extending the compliance dates will extend the Agency's practice of reduced inspections and enforcement at SPCC regulated facilities, continuing the increased likelihood of oil releases and endangerment of facility personnel and neighboring communities. By extending the compliance dates, the commenter was concerned that the Agency would allow noncompliant facilities that have not put SPCC Plans in place to continue to operate and endanger human health and the environment.

The Agency believes that it is in the best interest of both the regulated community and the environment to

address areas of confusion that arose after promulgation of the 2002 amendments. By promulgating a proposal intended to clarify requirements and reduce burdens, particularly on small businesses, and by making the SPCC Inspectors Guidance available to the regulated community, the Agency believes that a more effective and complete implementation of the SPCC regulation and improved environmental protection will ultimately result. The Agency also believes that the regulated community needs the additional time allowed by the extension in order to better take advantage of the guidance and any further amendments that are promulgated and that the benefits of this extension outweighs the concerns raised by commentors of increased administrative burdens.

## V. 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, this action has been judged as not a "significant regulatory action" because it extends the compliance dates in § 112.3, but has no other substantive effect. However, because of its interconnection with the rulemaking proposed on December 12, 2005 (see discussion in section II), which is a significant action under the terms of Executive Order 12866, this action was

nonetheless submitted to OMB for review.

#### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* because this action does not change the requirements of the rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

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 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, 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 that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, the Agency certifies that this action would not have a significant economic impact on a substantial number of small entities. 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 rule on small entities." 5 U.S.C. 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 relieves the regulatory burden for small entities by extending the compliance dates in § 112.3. After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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. This rule would reduce burden and costs for all facilities.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As was explained above, the effect of the rule is to reduce burden and costs for all facilities, including small governments that are subject to the rule by extending the compliance dates.

#### *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 does 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), States may 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 regulation and recognizes that some States have more stringent requirements (56 FR 54612, October 22, 1991). This rule does 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, the Agency has not consulted with a representative organization of tribal groups.

*G. Executive Order 13045—Protection of Children From Environmental Health and Safety Risk*

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, NTTAA does not apply.

*J. Congressional Review Act*

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Prior to publication of the final rule in the **Federal Register**, we will submit all necessary information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. Under the CRA, a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective upon publication in the **Federal Register**.

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

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

Dated: February 10, 2006.

**Stephen L. Johnson,**  
Administrator.

■ For the reasons set forth in the preamble, title 40 CFR, chapter I, part 112 of the Code of Federal Regulations is amended as follows:

**PART 112—OIL POLLUTION PREVENTION**

■ 1. The authority citation 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), (b), and (c) to read as follows:

**§ 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, by October 31, 2007, and implement the Plan no later than October 31, 2007. If your onshore or offshore facility becomes operational after August 16, 2002, through October 31, 2007, and could reasonably be expected to have a discharge as described in § 112.1(b), you must prepare and implement a Plan on or before October 31, 2007.

(b) If you are the owner or operator of an onshore or offshore facility that becomes operational after October 31, 2007, 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.

(c) If you are the owner or operator of an onshore or offshore mobile facility, such as an onshore drilling or workover rig, barge mounted offshore drilling or workover rig, or portable fueling facility, you must prepare, implement, and maintain a facility Plan as required by this section. You must maintain your Plan, but must amend and implement it, if necessary to ensure compliance with this part, on or before October 31, 2007. If your onshore or offshore mobile facility becomes operational after October 31, 2007, 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. This provision does not require that you prepare a new Plan each time you move the facility to a new site. The Plan may be a general Plan. When you move the mobile or portable facility, you must locate and install it using the discharge prevention practices outlined in the Plan for the facility. The Plan is applicable only

while the facility is in a fixed (non-transportation) operating mode.

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[FR Doc. 06-1502 Filed 2-16-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 710

[EPA-HQ-OPPT-2006-0025; FRL-7760-7]

RIN 2070-AC61

### TSCA Inventory Update Reporting Partially Exempted Chemicals List; Addition of Certain Vegetable-based Oils, Soybean Meal, and Xylitol

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to amend the Toxic Substances Control Act (TSCA) section 8(a) Inventory Update Reporting (IUR) regulations by adding the following four chemical substances to the list of chemical substances in § 710.46(b)(2)(iv) which are exempt from reporting processing and use information required by § 710.52(c)(4): Two vegetable-based oils (fats and glyceridic oils, vegetable (CASRN 68956-68-3) and canola oil (CASRN 120962-03-0)), soybean meal (CASRN 68308-36-1), and xylitol (CASRN 87-99-0). EPA has determined that the IUR processing and use information for these chemicals is of low current interest. Manufacturers and importers of the chemicals listed in § 710.46(b)(2)(iv) must continue to report manufacturing information.

**DATES:** This direct final rule is effective on April 18, 2006 without further notice, unless EPA receives adverse comment by March 20, 2006. If, however, EPA receives adverse comment, EPA will publish a **Federal Register** document to withdraw the direct final rule before the effective date.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2006-0025, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg.,

Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number EPA-HQ-OPPT-2006-0025.

The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPPT-2006-0025. EPA's policy is that all comments received will be included in the public docket without change and may be made available in the on-line docket at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the docket index at <http://www.regulations.gov/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in the online docket at <http://www.regulations.gov/> or in hard copy at the OPPT Docket, EPA Docket Center, EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington,

DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566-0280.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: Susan Sharkey, Project Manager, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-8789; e-mail address: [sharkey.susan@epa.gov](mailto:sharkey.susan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(7) to include import) chemical substances, including inorganic chemical substances, subject to reporting under the Inventory Update Rule (IUR) at 40 CFR part 710. Any use of the term "manufacture" in this document will encompass import, unless otherwise stated.

Potentially affected persons may include, but are not limited to: Chemical manufacturers and importers subject to IUR reporting, including chemical manufacturers and importers of inorganic chemical substances (The North American Industrial Classification System (NAICS) codes 325, 32411).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. Other types of persons not listed in this unit could also be affected. NAICS codes have been provided to assist you and others in determining whether this action might apply to certain persons. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 710.48. If you have any questions regarding the applicability of this action to a particular person, consult the technical