ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 130

[WH–FRL–7086–1]

RIN 2040–AD79

Effective Date of Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulations; and Revision of the Date for State Submission of the 2002 List of Impaired Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action establishes April 30, 2003 as the effective date of the revisions to EPA's Total Maximum Daily Load (TMDL) and National Pollutant Discharge Elimination System Program (NPDES) regulations published in the **Federal Register** on July 13, 2000. The July 2000 rule amends and clarifies existing regulations implementing section 303(d) of the Clean Water Act (CWA), which requires States to identify waters that are not meeting State water quality standards and to establish pollutant budgets, called TMDLs, to restore the quality of those waters. The rule also lays out specific time frames under which EPA will assure that lists of waters not meeting water quality standards (the 303(d) lists) and TMDLs are completed as scheduled, and that necessary point and nonpoint source controls are implemented to meet TMDLs.

In addition, today's action amends 40 CFR 130.7(d)(1), currently in effect, to revise the date on which States are required to submit the next list of impaired waters from April 1, 2002 to October 1, 2002. This new date will provide States who wish to do so the time to incorporate some or all of the recommendations suggested by EPA in a forthcoming guidance entitled: 2002 Integrated Water Quality Monitoring and Assessment Report Guidance, which is currently undergoing a final review.

DATES: The July 2000 rule amending 40 CFR parts 9,122,123,124 and 130 published on July 13, 2000 at 65 FR 43586 is effective on April 30, 2003. The amendment to 40 CFR 130.7(d)(1) made by this rule is effective November 19, 2001. This action is considered issued for purposes of judicial review as of 1 p.m. Eastern Daylight Time, on November 1, 2001 as provided in § 23.2.

ADDRESSES: The complete administrative record for the final rule has been established under docket number W–98–31–III TMDL, and includes supporting documentation as well as printed, paper versions of electronic comments. The docket is available for inspection from 9 a.m. to 4 p.m. Eastern Time, Monday through Friday excluding legal holidays at the Water Docket; EB 57; U.S. EPA; 401 M Street, SW., Washington, DC 20460. For access to docket materials, please call (202) 260–3027 between 9 a.m. and 4 p.m. An electronic version of this final rule will be available via the Internet at: *http://www.epa.gov/owow/tmdl/defer/*

FOR FURTHER INFORMATION CONTACT: For information about today's final rule, contact: Francoise M. Brasier, U.S. EPA Office or Wetlands, Oceans and Watersheds (4503F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, phone (202) 401–4078.

SUPPLEMENTARY INFORMATION:

A. Authority

Clean Water Act sections 106, 205(g), 205(j), 208, 301, 302, 303, 305, 308, 319, 402, 501 502, and 603; 33 U.S.C. 1256, 1285(g), 1285(j), 1288, 1311, 1312, 1313, 1315, 1318, 1329, 1342, 1361, 1362, and 1373.

B. Entities Potentially Regulated by the Proposed Rule

TABLE OF POTENTIALLY REGULATED ENTITIES

Category	Examples of potentially regulated entities
Governments	States, Territories and Tribes with CWA responsibilities

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated by this action. To determine whether you may be regulated by this action, you should carefully examine the applicability criteria in § 130.20 of title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to you, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. Explanation of Today's Action

I. Background

On August 9, 2001, EPA proposed to take two actions regarding the TMDL program. First, EPA proposed to delay by 18 months the effective date of a rule published in the **Federal Register** on July 13, 2000, which amends existing regulations governing the TMDL program. The July 2000 rule generated considerable controversy, as expressed in letters, testimony, public meetings, Congressional action, and litigation. Congress prohibited EPA from implementing the final rule through a spending prohibition attached to an FY2000 appropriations bill, which prohibited EPA from using funds made available for FY2000 and FY2001 ''to make a final determination on or implement'' the July 2000 TMDL rule. Cognizant of this spending prohibition, in the preamble to the July 2000 rule, EPA said that the July 2000 rule was not effective ''until 30 days after the date that Congress allows EPA to implement this regulation'' and that EPA would publish notice of the effective date in the **Federal Register**. Second, EPA proposed to revise its currently effective regulations to postpone the date by which States are required to submit the next section 303(d) list of impaired waters from April 1, 2002 to October 1, 2002. This delay was intended to provide time for EPA to issue guidance incorporating some of the National Research Council's (NRC) recommendations regarding the methodology used to develop the 303(d) lists and the content of these lists.

Based on concerns expressed by many interested organizations and in light of a recent report from the National Research Council (NRC), entitled ''Assessing the TMDL Approach to Water Quality Management,'' which recommends changes to the TMDL program, EPA believes that it is important at this time to re-consider some of the choices made in the July 2000 rule, while continuing to operate the program under the 1985 TMDL regulations, as amended in 1992. A delay of the effective date would allow the Agency to solicit and carefully consider suggestions on how to structure the TMDL program to be effective and flexible and to ensure that it leads to workable solutions that will meet the Clean Water Act goals of restoring impaired waters. In addition, EPA believes that its decision voluntarily to reconsider the July 2000 rule may result in revisions to the rule that would resolve at least some of the issues raised in pending litigation in the D.C. Circuit Court of Appeals. Instead of

expending resources in lengthy litigation, EPA believes it can speed up the process of putting in place a more workable program, while building a foundation of trust among stakeholders in the basic process for restoring impaired waters. Once this foundation is soundly built, it is far more likely that diverse stakeholders will be able to agree on plans for restoring water quality and far more likely that these important plans will be implemented.

II. Response to Comments and Final Decisions

Effective Date of the Final Regulations

EPA received approximately 100 separate comment letters and 85 duplicate postcards regarding its proposal to delay the effective date of the July 2000 rule. A majority of individual commenters supported EPA's action noting the controversy generated by the rule, the issues raised in recent lawsuits challenging the July 2000 rule, and the need to reevaluate the flexibility, practicality and scope of the rule. Other commenters, however, expressed concerns that postponing the effective date of the July 2000 rule would significantly impede progress towards cleaning up the nation's impaired waters. EPA does not agree with these commenters that an 18-month delay of the effective date of the July 2000 rule will significantly slow down the pace at which impaired waters are restored. In recent years, EPA and the States have made great strides in implementing the existing 303(d) program to list impaired waters and develop and implement TMDLs. States have substantially improved their TMDL programs while the Agency has provided the States with significant increases in technical and financial support to expand and strengthen all elements of their programs. EPA and the States also are cooperatively undertaking workshops around the country to present successful approaches to developing and implementing TMDLs. Much of this progress is driven by TMDL litigation. To date, environmental groups have filed legal actions in 38 States. Over 20 of these lawsuits have resulted in court orders or consent decrees under which EPA is required to establish TMDLs if the State fails to do so pursuant to specific schedules. The pace of TMDL establishment has increased greatly over the last few years with almost twice as many TMDLs approved or established by EPA in 2001 as in 2000.

Current court orders and consent decrees require EPA to establish (if the States do not) approximately 2000 TMDLs in the next 18 to 24 months. These requirements are in place independently of any separate requirements in the July 2000 rule. Accordingly, EPA does not believe that an 18-month delay in the July 2000 rule's effective date will in any significant way slow the development of TMDLs.

Some commenters opposed to the delay of the effective date of the July 2000 rule expressed concerns that TMDLs established during that delay might not include implementation plans, which they see as an essential component of the July 2000 rule. It is true that, absent a requirement to include an implementation plan as part of a TMDL as required by the July 2000 rule, States may not develop implementation plans for all TMDLs. However, section 130.37 of the July 2000 rule provided that EPA could approve a TMDL without an implementation plan during a 9-month transition period following the effective date of the July 2000 rule. Accordingly, for one half of the 18-month delay period, implementation plans would not have been required for TMDL approval. Moreover, EPA is working in other ways to ensure that management measures reflecting load allocations in TMDLs are undertaken. For example, EPA issued a guidance on September 13, 2001 entitled ''Supplemental Guidelines for the Award of Section 319 Nonpoint Source Grants to States and Territories in FY 2002 and Subsequent Years'' available at *http://www.epa.gov/owow/nps/Section319/fy2002.html*, which provides for a more concentrated focus on the implementation of TMDLs related to nonpoint source pollution for FY 2003 and beyond. Finally, even under the currently effective TMDL regulations, States may submit and some, such as California, Virginia, Washington and Oregon, have been submitting implementation plans along with TMDLs.

Some commenters who agreed that EPA should delay the effective date of the rule suggested that EPA should do so for longer than 18 months. EPA disagrees. EPA believes that 18 months should be a sufficient time to reconsider the controversial elements of the July 2000 rule that have already been the subject of significant comments and dialogue. Other commenters who agreed with EPA also submitted comments regarding the requirements which EPA should consider including in a new rule. EPA will consider these recommendations as it reevaluates the July 2000 rule. Several commenters also suggested that EPA should provide the public a detailed schedule for issuance of a new rule including information on planned public outreach and the internal Agency decision process. On October 9, 2001, EPA announced a series of outreach meetings and has posted information regarding these meetings on the internet. EPA also intends to post discussion guides and meeting summaries on the internet. In addition, EPA will, to the best of its ability, meet and share information with stakeholders as it develops any revisions to the July 2000 rule.

EPA is committed to structuring a flexible, effective TMDL program that States, Territories and authorized Tribes can support and implement. EPA believes that, given its decision to reconsider the July 2000 rule and to do so in an expeditious manner, it would be undesirable to have the July 2000 rule go into effect now for a relatively short time. This is especially so given that the rule's requirements would not be mandatory for another nine months (65 FR 43635). The Agency believes that by delaying the effective date of the July 2000 rule until April 30, 2003, it will be better able to reconsider the rule and address concerns expressed about it by a wide range of stakeholders. The Agency hopes to be able to narrow the differences among the diverse stakeholders interested in or are affected by the TMDL rules such that a framework is established under which TMDLs will actually be implemented in a timely and cost-effective manner.

Therefore, after carefully considering all the comments received on delaying the effective date of the July 2000 rule, EPA is promulgating a final action today that establishes April 30, 2003 as the effective date of the TMDL rule published in the **Federal Register** on July 13, 2000 (65 FR 43586). EPA believes that this delay of the effective date is the minimum necessary for the Agency to be able to conduct a meaningful consultation with the public, analyze recommendations of various stakeholders, reconcile concerns about the scope, complexity, and cost of the TMDL program, and structure a flexible yet effective solution to meet Clean Water Act goals of restoring the nation's impaired waters. During this delay, the program will continue to operate under the 1985 TMDL regulations, as amended in 1992 at 40 CFR part 130, and EPA and the States and Territories will continue to develop TMDLs to work towards cleaning up the nation's waters and meeting water quality standards.

Revisions to the Due Date of the Next List of Impaired Waters

EPA received approximately 60 separate comments and 85 duplicate postcards regarding its proposal to revise the date on which States are required to submit the next section 303(d) list of impaired waters from April 1, 2002 to October 1, 2002. A substantial number of individual commenters agreed with the Agency's proposal and its rationale. However, several commenters disagreed. A few commenters stated that the Agency should not allow any more time for States to develop the next list. In their view, an April 2002 list already represents a two-year delay because EPA had earlier eliminated the requirement for States to submit a list to EPA on April 1, 2000. They also disagreed with EPA's rationale that new guidance was needed before States should be required to submit a new list. They argued any guidance issued at this time would have to follow the current regulations and could not incorporate some of the recommendations of the NRC. They, therefore, believed that existing guidance was sufficient to produce the 2002 list. EPA agrees that any guidance it issues at this point must be based on current regulations and it is not EPA's intent to change these existing regulations by guidance. However, EPA believes that within the context of the current regulations, there is sufficient flexibility to issue guidance that it believes could significantly improve some States' lists. EPA has drafted a guidance entitled ''2002 Integrated Water Quality Monitoring and Assessment Report Guidance'' which will be released shortly. EPA believes that States should be given additional time to review and incorporate some of the elements of the guidance in their next list if they so wish. For that reason, EPA continues to believe that a relatively brief 6-month delay of the 303(d) lists' due date is warranted.

Some commenters believed that the Agency should postpone the next 303(d) list until after the new rule is in place. They argued that development of a new rule would introduce substantial uncertainty while the States are developing their listing methodologies and their next lists pursuant to a rule and guidance that may be substantially changed soon after the 2002 lists are submitted. EPA continues to believe, however, that it is important for a new list to be produced in 2002. EPA believes that it is important to update States' 1998 lists to reflect current information to maintain the credibility of the TMDL program. EPA is aware of concerns expressed by some point source dischargers about the impact of being located on a listed stream. EPA believes that its upcoming guidance should help ensure that the 2002 section 303(d) lists more accurately identify currently impaired waters than earlier lists.

Some commenters stated their concerns that, if the 2002 list deadline is moved to October, the report required under section 305(b) of the CWA and the list required under section 303(d) would be due at different times. These commenters asked that the Agency also delay the date of the section 305(b) report. However, the due date of the section 305 (b) report is a statutory requirement and EPA cannot change it by regulation or guidance. The Agency can take steps however, to ensure that States that choose to submit a 305(b) report on October 1, 2002 do not suffer any adverse consequences. EPA will review its agreements with States regarding distribution of grants under section 106 of the CWA to make sure that receipt of grant funds are not contingent upon completion of a section 305 (b) report on April 1, 2002.

EPA received only one comment on its proposal to retain the April 1, 2002 listing requirement if a court order or consent decree or commitment in a settlement agreement expressly requires EPA to take action related to the State's 2002 list prior to October 1, 2002. When EPA published the proposal, EPA stated that it believed that this provision would only apply to the State of Georgia. The commenter expressed concern that, notwithstanding a consent decree, it was inequitable to require Georgia to meet the existing April 2002 deadline. The commenter noted that, if Georgia was required to submit its 2002 list prior to issuance of EPA's 2002 listing guidance, parts of the Georgia list may be invalidated.

EPA believes that the commenter's concerns can be addressed while requiring Georgia to submit its 2002 list in April 2002. EPA continues to believe that a State should be required to submit a 2002 list by April 1, 2002, in order to enable EPA to meet a commitment embodied in a court order, consent decree, or settlement agreement expressly requiring EPA to take action related to the State's 2002 list prior to October 1, 2002. Since this provision only applies to the State of Georgia, EPA will work with Georgia to ensure that the list it submits to EPA by April 1, 2002, meets the requirements of the Clean Water Act and EPA's currently effective regulations. In addition, EPA anticipates issuing guidance on the 2002 lists shortly so that Georgia will have the benefit of that guidance at least several months before the date it is required to submit its 2002 list. Finally, the listing guidance will not and cannot impose any binding requirements on the States, separate and apart from the statutory and regulatory requirements.

After careful review of all comments, EPA continues to believe that briefly delaying the due date of the next section 303(d) list is an appropriate step that will give the States that wish to do so time to adopt some or all of the recommendations of EPA's new guidance. EPA is aware that some States are well underway in their development of a 2002 section 303(d) list which they intended to submit on April 1, 2002. EPA will review and approve or disapprove a State list within 30 days as required by the CWA regardless of when it is submitted. EPA's decision to approve or disapprove such a list will be based on the statutory requirements at section 303(d) and EPA's regulations at 40 CFR 130.7.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, (October 4, 1993)), EPA must determine 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 ''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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' and as such, has not been submitted to OMB for review.

B. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 EPA 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 EPA. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866.

C. Unfunded Mandates Reform Act (UMRA) of 1995

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, Tribal and local governments and the private sector. Under section 202 of the 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 the 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 cost-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 the 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.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or Tribal government or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA. For the same reason, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This action does not impose any requirement on anyone. Thus, there are no costs associated with this action . Therefore, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any requirements on anyone and does not voluntarily request information.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking 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. 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. This action does not impose any requirements on anyone, including small entities.

F. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 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 (e.g., 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 rulemaking does not impose any new technical standards.

G. 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 will 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. It merely delays

the effective date of the July 2000 rule and the due date of the April 2002 lists. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.''

This rule establishes a relatively short delay in the effective date of the July 2000 TMDL Rule and the due date of the April 1, 2002 lists. Because these delays are relatively brief (18 months and six months, respectively) EPA does not believe this rule will have ''substantial direct effects'' on Tribes or the relationship or distribution of power between Tribes and the Federal Government. As discussed earlier in the preamble, during the 18-month period before the July 2000 rule becomes effective, TMDLs will continue to be developed pursuant to the regulations in effect at section 130.7. Moreover, EPA does not believe that a 6-month delay in submission of the 2000 lists will slow the pace of TMDL development given the number of waters on existing lists and the many court orders and schedules directing TMDL development. Thus, Executive Order 13175 does not apply to this rule.

I. Congressional Review Act

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 this rule 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). The July 2000 rule amending 40 CFR parts 9, 122, 123, 124 and 130 published on July 13, 2000 at 65 FR 43586 is effective on April 30, 2003. The amendment to 40 CFR 130.7(d)(1) is effective November 19, 2001.

J. Executive Order 12866—Plain Language Considerations

Executive Order 12866 requires each agency to write all rules in plain language. EPA invited public comment in the proposed rule on how to make this rule easier to understand including addressing concerns regarding organization of material, clear presentation of technical terms and concepts, and alternative formats to facilitate better understanding of the Agency's action. The Agency received only one comment on this issue requesting that the rule be clearly written. The Agency has addressed this concern by reducing the amount of technical jargon in this notice, by organizing the material in a straightforward, understandable format, and by clearly discussing each of the requirements of this rule. By doing so the Agency has met the plain language requirements of Executive Order 12866.

K. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'', 66 FR 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 123

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Hazardous substances, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 130

Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 12, 2001.

Christine T. Whitman,

Administrator.

PARTS 9, 122, 123, 124 AND 130—EFFECTIVE DATE AND REVISIONS

For the reasons stated in the preamble, EPA is establishing April 30, 2003 as the effective date of the amendments to 40 CFR parts 9, 122, 123, 124 and 130 published July 13, 2000 (65 FR 43586).

For the reasons stated in the preamble, EPA is amending 40 CFR part 130 as follows:

PART 130—WATER QUALITY PLANNING AND MANAGEMENT

1. The authority citation for part 130 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 130.7, currently in effect, is amended by adding a new sentence after the fourth sentence in paragraph (d)(1) to read as follows:

§ 130.7 Total maximum daily loads (TMDL) and individual water quality-based effluent limitations.

* * * * *

(d) * * * (1) * * * For the year 2002 submission, a State must submit a list required under paragraph (b) of this section by October 1, 2002, unless a court order, consent decree or commitment in a settlement agreement expressly requires EPA to take an action related to that State's 2002 list prior to October 1, 2002, in which case, the State must submit a list by April 1, 2002. * * *

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[FR Doc. 01–26265 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P