

does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 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." These final rules do not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks*

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.

These rules are not subject to Executive Order 13045 because they do not involve decisions intended to mitigate environmental health or safety risks.

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

These rules are 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.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

*J. 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 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. section 804(2). This rule will be effective December 8, 2003.

*K. Petitions for Judicial Review*

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 January 5, 2004. Filing a petition for reconsideration by the Administrator of this final rule does 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 25, 2003.

**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 52.271 is amended by adding paragraphs (b)(5) and (b)(6) and (d) to read as follows:

**§ 52.271 Malfunction, startup, and shutdown regulations.**

\* \* \* \* \*

(a) \* \* \*

(5) Butte County AQMD.

(i) Rule 275, Reporting Procedures for Excess Emissions, submitted on May 10, 1996.

(6) Shasta County AQMD.

(i) Rule 3:10, Excess Emissions, submitted on May 10, 1996.

\* \* \* \* \*

(d) The following regulations are disapproved because they merely describe how state agencies intend to apply their enforcement discretion and thus, if approved, the regulations would have no effect on the State Implementation Plan.

(1) Antelope Valley AQMD.

(i) Rule 430, Breakdown Provisions, submitted on February 16, 1999.

(2) Kern County APCD.

(i) Rule 111, Equipment Breakdown, submitted on July 23, 1996.

(3) Mojave Desert AQMD.

(i) Rule 430, Breakdown Provisions, submitted on January 24, 1995.

[FR Doc. 03-27848 Filed 11-5-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

[FRL-7584-1]

**Water Quality Standards; Withdrawal of Federal Nutrient Standards for the State of Arizona**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to amend the Federal regulations to withdraw water quality criteria applicable to Arizona. In 1976, EPA

promulgated Federal criteria for nutrients in Arizona. The Federal criteria consisted of numeric ambient water quality criteria for nutrients for eleven river segments and narrative water quality criteria for nutrients applicable to all surface waters in Arizona. Arizona has now adopted its own numeric and narrative water quality criteria for nutrients, which EPA has approved. Arizona has also established and EPA has approved implementation procedures for its narrative nutrient water quality criteria. Therefore, EPA has determined that the Federally promulgated criteria for Arizona are no longer needed and is withdrawing the Federal criteria for nutrients in Arizona.

**DATES:** This rule is effective on December 8, 2003.

**ADDRESSES:** The supporting record for this decision may be inspected at EPA Region 9, 75 Hawthorne Street, Water Division, Clean Water Act Standards and Permits Office, San Francisco, CA 94105, Monday through Friday, excluding legal holidays, during normal business hours of 9 a.m. to 5:00 p.m. Please contact Gary Sheth, as listed in the **FOR FURTHER INFORMATION CONTACT** section, before arriving.

A copy of Arizona's water quality standards may be obtained electronically from EPA's Water Quality Standards Repository, at <http://www.epa.gov/waterscience/wqs/>.

**FOR FURTHER INFORMATION CONTACT:** Gary Sheth at EPA Region 9, Water Division, Clean Water Act Standards and Permits Office (WTR-5), 75 Hawthorne Street, San Francisco, CA 94105 (tel: 415-972-3516, fax: 415-947-3545) or e-mail to [sheth.gary@epa.gov](mailto:sheth.gary@epa.gov), or Kellie Kubena at EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave, NW., Washington, DC 20460 (tel: 202-566-0448, fax: 202-566-0409) or e-mail to [kubena.kellie@epa.gov](mailto:kubena.kellie@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Potentially Regulated Entities**

No one is regulated by this rule. This rule merely withdraws certain Federal water quality criteria for nutrients applicable in Arizona.

##### **II. Background**

###### *A. What Are the Statutory and Regulatory Requirements Relevant to This Action?*

Section 303(c) (33 U.S.C. 1313(c)) of the Clean Water Act (CWA or Act) directs States, with oversight from EPA, to adopt water quality standards to protect the public health and welfare, enhance the quality of water and serve

the purposes of the Act. States are required to develop water quality standards for waters of the United States within the State. Section 303(c) and EPA's implementing regulations provide that a water quality standard shall include the designated use or uses to be made of the water, the water quality criteria necessary to protect those uses, and an antidegradation policy. 33 U.S.C. 1313(t)(2)(A); 40 CFR 131.10-12. States may also include in their water quality standards policies generally affecting the standards' application and implementation. 40 CFR 131.6(f); 40 CFR 131.13. States are required to review their water quality standards at least once every three years and, if appropriate, revise or adopt new standards. 33 U.S.C. 1313(c)(2). States are required to submit the results of their reviews to EPA. EPA then reviews the State's standards for consistency with the CWA and EPA's implementing regulations at 40 CFR part 131 and approves or disapproves any new or revised standards. 33 U.S.C. 1313(c)(3). Section 303(c)(4) of the CWA authorizes EPA to promulgate water quality standards when necessary to supersede disapproved State water quality standards, or in any case where the Administrator determines that new or revised standards are necessary to meet the requirements of the CWA.

EPA may issue a rule to withdraw Federal water quality standards promulgated for a State when the State adopts, and EPA approves, State water quality standards that meet the requirements of the CWA and the implementing Federal regulations. That is the situation here.

###### *B. What Actions Have EPA and Arizona Taken in the Past Relating to Water Quality Standards for Nutrients in the State?*

In 1976, EPA determined that water quality standards for nutrients submitted by Arizona as of that time did not meet the CWA's requirements. On June 22, 1976, EPA promulgated Federal numeric nutrient criteria for total phosphates applicable to eleven river segments in Arizona, Federal numeric nutrient criteria for total nitrates applicable to four waterbodies, and Federal narrative nutrient criteria applicable to all surface waters of the United States in Arizona. See 40 CFR 131.31(a); 41 FR 25000 (June 22, 1976). Although EPA used the phrase *nutrient standards* to describe the water quality criteria for nutrients codified at 40 CFR 131.31(a), in today's action, EPA is using the more precise term *criteria* to refer to the Federal water quality criteria

for nutrients in Arizona that EPA is withdrawing.

Since EPA's promulgation of nutrient water quality criteria in 1976, EPA has approved the numeric and narrative water quality criteria for nutrients adopted by Arizona. See, e.g., EPA's **Federal Register** notices of approvals at 53 FR 4209 (Feb. 12, 1988); 58 FR 62124 (Nov. 24, 1993); 60 FR 51793 (Oct. 3, 1995). Specifically, in a series of actions, the Arizona Department of Environmental Quality (ADEQ) adopted, and EPA approved, numeric nutrient criteria for total nitrogen and total phosphorous applicable to specific water bodies in Arizona. See Arizona Administrative Code, R18-11-109, 11-110, and 11-112. Arizona has also adopted and EPA has approved narrative nutrient criteria applicable to all surface waters of the State. See Arizona Administrative Code, R18-11-108. Arizona's narrative nutrient criteria provide that "navigable waters shall be free from pollutants in amounts or combinations that cause the growth of algae or aquatic plants that inhibit or prohibit the habitation, growth or propagation of other aquatic life or that impair recreational uses". See Arizona Administrative Code, R18-11-108.A.5.

In January 1996, ADEQ established implementation procedures for its narrative nutrient water quality criteria (see Arizona's *Implementation Guidelines for the Narrative Nutrient Standard* ([http://www.sosaz.com/public\\_services/Title\\_18/18\\_table.htm](http://www.sosaz.com/public_services/Title_18/18_table.htm))). On April 26, 1996, EPA approved these implementation procedures. On May 7, 1996, EPA promulgated additional water quality standards for Arizona, noting that the State had identified its own implementation procedures to translate its narrative criteria. See 61 FR 20686 (May 7, 1996). Although EPA did not specifically address the continuing need for the 1976 Federal nutrient criteria, EPA observed in that notice that Arizona's numeric and narrative nutrient criteria, as supplemented by the State's newly established implementation procedures, were consistent with the CWA. See 61 FR 20692 (May 7, 1996). Consistent with this earlier finding, EPA has determined that the 1976 Federal criteria for nutrients for Arizona waters are redundant and no longer necessary. On July 30, 2001, EPA proposed to withdraw the Federal water quality criteria for nutrients applicable to Arizona surface waters at 40 CFR 131.31(a). (See Section III for a discussion of comments received). EPA is now finalizing its decision to withdraw federally promulgated nutrient criteria applicable to Arizona.

EPA notes that Arizona's adopted and approved numeric water quality criteria for nutrients are based on total phosphorous and total nitrogen whereas the numeric water quality criteria for nutrients promulgated by EPA in 1976 are based on total phosphates and total nitrates. Total phosphorous and total nitrogen are more encompassing measurements of the presence of these types of nutrients than total phosphates and total nitrates, for which EPA promulgated water quality criteria in 1976, because elemental phosphorous and nitrogen can be present in different forms under different conditions (including, but not limited to, phosphates and nitrates). For this reason, EPA currently recommends adopting criteria for total phosphorous and total nitrogen. See *Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs*, EPA-822-B-00-001; *Ambient Water Quality Criteria Recommendations: Lakes and Reservoirs in Nutrient Ecoregion II*, EPA-822-B-00-007; *Ambient Water Quality Criteria Recommendations: Rivers and Streams in Nutrient Ecoregion II*, EPA 822-B-00-015; *Ambient Water Quality Criteria Recommendations: Rivers and Streams in Nutrient Ecoregion III*, EPA 822-B-00-016. Although EPA is not able to directly compare Arizona's nutrient criteria based on total phosphorous and total nitrogen with the Federally promulgated criteria based on total phosphates and total nitrates, the CWA and EPA's regulations at 40 CFR 131.11 only require that States adopt criteria that are scientifically defensible and sufficiently detailed to protect the designated uses of the waterbodies. When EPA approved these criteria, EPA determined that they met this requirement and adequately protected Arizona waters from excess nutrients (the same objective of the 1976 Federal nutrients water quality criteria). For more detailed information on EPA's analysis, see EPA's approval decisions contained in the docket for this rulemaking

*C. What Water Quality Standards Will Apply Now That EPA Is Withdrawing the Federal Nutrient Criteria in Arizona?*

The goal of EPA's 1976 rulemaking in Arizona was to establish water quality criteria to protect the designated uses of Arizona surface waters. EPA withdraws federally promulgated water quality standards after the State adopts, and EPA approves, water quality standards that meet the requirements of the CWA and the implementing Federal regulations. As discussed earlier, in 1996, after approving Arizona's nutrient criteria and implementation procedures, EPA determined that Arizona's standards met the requirements of the CWA and EPA's implementing regulations and Federally promulgated nutrient criteria were no longer necessary. As a result of today's action, Arizona's numeric and narrative nutrient criteria, and the corresponding implementation procedures for the narrative criteria are the applicable nutrient criteria. Not affected by this proposal are Federal water quality standards codified at 40 CFR 131.31(b) and (c), which among other things designate fish consumption as a use for certain waters, and require implementation of a monitoring program regarding mercury's effects on wildlife. These provisions remain in effect.

Table 1 below displays the Federal numeric criteria for nutrients and the State's corresponding criteria. The waterbody segments listed in Table 1 are the waters for which the Federal numeric nutrient criteria being withdrawn today had applied. For convenience, the Federal nutrient criteria and the corresponding State nutrient criteria are listed for each water body. See 40 CFR 131.31(a). Because the Federal and State nutrient criteria are based on measurements of different parameters (i.e., total phosphates and total nitrates versus total phosphorous and total nitrogen), this table does not provide a direct comparison of the Federal and State nutrient criteria but rather describes how individual waters that are currently covered by the Federal criteria for nutrients will be covered by

Arizona's water quality standards. For waterbodies or waterbody segments listed in rows 4, 8, 9, and 11, Arizona has adopted numeric nutrient water quality criteria for either total nitrogen, total phosphorus, or both. In addition to the numeric nutrient criteria in Table 1 for the listed stream segments, Arizona has adopted numeric nutrient criteria for additional stream segments not covered by the Federal nutrient criteria. Between 1976 and 1996, EPA approved Arizona's numeric nutrient criteria because the criteria were derived using sound science and are protective of the designated uses of those waters. Readers interested in viewing Arizona's numeric nutrient criteria not listed in Table 1 should consult Arizona's water quality standards (R18-11-109, 11-110, and 11-112). Arizona's water quality standards can be viewed on the EPA Office of Water Standards Repository Web site at <http://www.epa.gov/waterscience/standards/wqslibrary/>.

For waterbodies or waterbody segments where Arizona has not adopted any numeric nutrient water quality criteria to replace the Federal numeric water quality criteria for nutrients (the waters listed in rows 1, 2, 3, 5, 6, 7, and 10), only the State's narrative nutrient criteria apply. In 1996, EPA determined that the narrative nutrient criteria, in conjunction with Arizona's *Implementation Guidelines for the Narrative Nutrient Standard*, would provide the same intended level of protection as the Federal criteria by fully protecting the designated uses of these waters because they allow for consideration of site-specific water quality information. Indeed, when necessary, narrative criteria with the appropriate implementation procedures can be used to obtain quantitative measures having a greater degree of precision and site specificity than a single numeric target. EPA reviewed and approved Arizona's narrative nutrient criteria and the *Implementation Guidelines for the Narrative Nutrient Standard* as being scientifically defensible and consistent with the CWA and EPA's implementing regulations at 40 CFR 131.11.

TABLE 1.—FEDERAL NUTRIENT CRITERIA IN CFR 131.31(A) AND ARIZONA NUTRIENT CRITERIA

Water body segment	Federal criteria at 40 CFR 131.31 (mg/L) (mean/90th percentile)		Arizona criteria (mg/L) (mean/90th percentile/max)	
	Total phosphates	Total nitrates	Total phosphorus	Total nitrogen
1. Colorado River from Utah border to Willow Beach (main stem) .....	0.04/0.06	4/7	nnc .....	nnc
2. Colorado River from Willow Beach to Parker Dam (main stem) .....	0.06/0.10	5/-	nnc .....	nnc
3. Colorado River from Parker Dam to Imperial Dam (main stem) .....	0.08/0.12	5/7	nnc .....	nnc

TABLE 1.—FEDERAL NUTRIENT CRITERIA IN CFR 131.31(A) AND ARIZONA NUTRIENT CRITERIA—Continued

Water body segment	Federal criteria at 40 CFR 131.31 (mg/L) (mean/90th percentile)		Arizona criteria (mg/L) (mean/90th percentile/ max)	
	Total phosphates	Total nitrates	Total phosphorus	Total nitrogen
4. Colorado River from Imperial Dam to Morelos Dam (main stem) .....	0.10/0.10	5/7	nnc/0.33/ nnc.	nnc/2.50/nnc
5. Gila River from New Mexico border to San Carlos Reservoir (excluding San Carlos Reservoir).	0.50/0.80	—/—	nnc .....	NA
6. Gila River from San Carlos Reservoir to Ashurst Hayden Dam (including San Carlos Reservoir).	0.30/.050	—/—	nnc .....	NA
7. San Pedro River .....	0.30/0.50	—/—	nnc .....	NA
8. Verde River (except Granite Creek) .....	0.20/0.30	—/—	0.10/0.30/ 1.00.	NA
9. Salt River above Roosevelt Lake .....	0.20/0.30	—/—	0.12/0.30/ 1.00.	NA
10. Santa Cruz River from international boundary near Nogales to Sahuarita .....	0.50/0.80	—/—	nnc .....	NA
11. Little Colorado River above Lyman Reservoir .....	0.30/0.50	—/—	0.20/0.30/ 0.75.	NA

— No Federal numeric nutrient criteria were promulgated.

nnc The State's narrative nutrient water quality criteria apply in conjunction with the State's implementation procedures.

NA EPA has not included the State's nutrient criteria for total nitrogen for these waters because these waters were not subject to the 1976 Federal numeric nutrient water quality criteria for total nitrates.

*D. What Current Efforts Are Underway To Further Protect Waters From Excessive Nutrients?*

In the time since EPA approved Arizona's nutrient criteria, EPA has developed waterbody specific technical guidance manuals for deriving numeric nutrient criteria as well as waterbody and ecoregion specific criteria recommendations. For freshwaters, the guidance recommends that States address total nitrogen, total phosphorous, chlorophyll-a, and turbidity when developing nutrient criteria to protect designated uses. EPA has also published recommended ecoregion-specific nutrient water quality criteria for States to use as starting points in adopting water quality standards (see 66 FR 1671, January 9, 2001). This information may be found at <http://www.epa.gov/ost/standards/nutrient.html>. EPA's criteria documents include nutrient water quality criteria recommendations for rivers and streams and for lakes and reservoirs within Arizona. When EPA determined that Arizona's nutrient criteria were consistent with the CWA and protective of designated uses, EPA did not have numeric nutrient criteria recommendations. EPA is currently withdrawing the Federal nutrient criteria applicable to eleven waters in the State of Arizona because EPA determined that Arizona's nutrient criteria are as protective as the federally promulgated nutrient criteria for those waters. Arizona is currently working on a nutrient criteria plan to develop and adopt numeric nutrient criteria for all of

its waters based on EPA's most current guidance. EPA will work with Arizona to revise the State's water quality standards where recent information shows new or revised nutrient criteria are necessary to better protect its designated uses.

**III. Response to Comments**

EPA received comments from the Environmental Management Division of the International Boundary and Water Commission United States and Mexico, Office of the Commissioner (United States Section) and from the Water Quality Division, Arizona Department of Environmental Quality, both supporting EPA's action to withdraw Federal nutrient criteria. These comments have been included in the Administrative Record.

EPA also received a comment from Pima County Wastewater Management Department that supports the withdrawal of the Federal numeric criteria, but opposes EPA's proposal to also withdraw the Federal narrative criteria in Arizona until that time when the State completes its planned narrative nutrient implementation guideline stakeholder and rulemaking process. EPA appreciates the commenter's support for withdrawing the Federal numeric criteria, but disagrees that it should maintain the Federal narrative criteria as requested by the commenter. As noted earlier, EPA approved Arizona's Implementation Guidelines in 1996. This approval was based on EPA's determination that these guidelines satisfy the requirements of EPA's

regulations that States provide information addressing the implementation of State narrative criteria. EPA recognizes that ADEQ is in the process of developing revised, ecoregion specific implementation procedures for the narrative nutrients standard. This laudable effort, however, does not change the fact that Arizona presently has nutrient implementation procedures that meet the requirements of the Act. Therefore, EPA believes that there is no reason for it not to withdraw both numeric and narrative nutrient criteria at the present time.

**IV. Statutory and Executive Order Reviews**

*A. Executive Order 12866—Regulatory Planning and Review*

This action withdraws Federal requirements applicable to Arizona and imposes no regulatory requirements or costs on any person or entity, does not interfere with the action or planned action of another agency, and does not have any budgetary impacts or raise novel legal or policy issues. Thus, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to the Office of Management and Budget (OMB) review.

*B. Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 because it is administratively withdrawing Federal

requirements that no longer need to apply to Arizona.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of a rule that is 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 significant economic impact on a substantial number of small entities. This rule imposes no regulatory requirements or costs on any small entity. Therefore, 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 III of the Unfunded Mandates Reform Act (UMRA) (Pub. L. 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. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, Tribal, or local governments or the private sector because it imposes no enforceable duty on any of these entities. Thus, today's rule is not subject to the requirements of UMRA sections 202 and 205 for a written statement and small government agency plan. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and is therefore not subject to UMRA section 203.

#### 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 State and local government officials have an opportunity to provide input in the development of regulatory policies 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 governments. This rule imposes no regulatory requirements or costs on any State or local governments; therefore, it does not have federalism implications under Executive Order 13132.

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

Again, this rule imposes no regulatory requirements or costs on any Tribal government. It does not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000).

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

This rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and EPA has no 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 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.

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

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 because this rule does not involve technical standards.

#### J. 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) and will be effective on December 8, 2003.

#### List of Subjects in 40 CFR Part 131

Environmental protection, Indians-lands, Intergovernmental Relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 30, 2003.

**Marianne Lamont Horinko**,  
*Acting Administrator*.

■ For the reasons set out in the preamble, 40 CFR part 131 is amended as follows:

#### PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

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

#### § 131.31 [Amended]

■ 2. Section 131.31 is amended by removing and reserving paragraph (a).

[FR Doc. 03-27948 Filed 11-5-03; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 131

[FRL-7583-9]

#### Water Quality Standards; Withdrawal of Federal Aquatic Life Water Quality Criteria for Copper and Nickel Applicable to South San Francisco Bay, CA

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal regulations to withdraw aquatic life water quality criteria for copper and nickel applicable to south San Francisco Bay, California. South San Francisco Bay is the area of San Francisco Bay that is located south of the Dumbarton Bridge. On May 18, 2000, EPA promulgated Federal regulations establishing water quality criteria for priority toxic pollutants for the State of California, since the State had not complied with the Clean Water Act. This regulation is known as the "California Toxics Rule" or "CTR." On December 17, 2002, the State of California completed its adoption process to incorporate copper and nickel aquatic life water quality criteria for south San Francisco Bay. The State of California calls these criteria site-specific water quality objectives or site-specific objectives. On January 9, 2003,