I. General Information

No one is regulated by this rule. This rule withdraws certain federal water quality criteria applicable to New Jersey, Puerto Rico, and California. The withdrawal of the federal water quality criteria applicable to New Jersey and Puerto Rico in this action, in combination with previous federal withdrawal actions, results in the complete removal of New Jersey and Puerto Rico from the NTR.

Background

In 1992, EPA promulgated the NTR to establish numeric water quality criteria for 12 states and two Territories, including New Jersey, Puerto Rico and parts of California (hereafter “States”) that had failed to comply fully with Section 303(c)(2)(B) of the Clean Water Act or CWA. As of the December 22, 1992, the criteria codified at 40 CFR 131.36 became the applicable water quality standards in those 14 States for all purposes and programs under the CWA effective February 5, 1993.

On May 18, 2000, EPA then promulgated a final rule known as the CTR that at 40 CFR 131.38 in order to establish numeric water quality criteria for priority toxic pollutants for the State of California that were not previously in the NTR, because the State had not complied fully with Section 303(c)(2)(B) of the CWA (65 FR 31682). At that time, any criteria promulgated as part of the NTR for California were codified in the criteria tables for the CTR at 40 CFR 131.38. The water quality standards program was developed with an emphasis on state primacy. Although in the NTR and CTR EPA promulgated toxic criteria for the certain States, EPA prefers that states maintain primacy and revise their own standards to achieve full compliance with the CWA (57 FR 60860, December 22, 1992). As described in the preamble to the final NTR and CTR, when a State adopts, and EPA approves, water quality criteria that meet the requirements of the CWA, EPA issues a rule amending the NTR and/or CTR to withdraw the criteria applicable to that State. On April 5, 2012, EPA proposed the withdrawal of certain criteria for New Jersey, Puerto Rico and California’s San Francisco Bay (see 77 FR 20585; April 5, 2012). EPA received comments for the proposed rule and a listing of the comments and EPA’s responses are contained in the document “Response to Comments for Water Quality Standards; Withdrawal of Certain Federal Water Quality Criteria Applicable to California, New Jersey and Puerto Rico.” Today, EPA is taking final action on its proposal. This rule does not remove any water quality protections. Rather, it removes a federal regulation that essentially duplicates State regulation.

New Jersey

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule...
withdrowns criteria for New Jersey related to two separate approval actions: August 16, 2002 and December 20, 2006. EPA’s action approving New Jersey’s adopted criteria (including a rationale for approving criteria that are less stringent than the federally promulgated criteria) can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing the federal water quality criteria listed below, as the state’s criteria have been determined to meet the requirements of the CWA and EPA’s implementing regulations at 40 CFR 131.

- Arsenic (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Cadmium (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Chromium III (aquatic life—freshwater (acute and chronic))
- Chromium VI (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Copper (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Lead (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Mercury (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Nickel (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Selenium (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Silver (aquatic life—freshwater (acute) and marine water (acute))
- Zinc (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- Chlorodibromomethane (human health—organisms only)
- 1,1–Dichloroethylene (human health—organisms only)
- 1,1,2,2–Tetrachloroethane (human health—organisms only)
- 1,1,2–Trichloroethane (human health—organisms only)
- Fluorene (human health—organisms only)
- Hexachlorobutadiene (human health—organisms only)
- Isophorone (human health—organisms only)
- gamma-BHC (human health—organisms only)
- PCBs (human health—water & organisms and organisms only)

The finalization of this action for New Jersey results in the complete removal of New Jersey from the NTR.

Puerto Rico

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule withdraws criteria for Puerto Rico related to one approval action on August 4, 2010. EPA’s actions approving Puerto Rico’s adopted criteria (including a rationale for approving criteria that are less stringent than the federally promulgated criteria) can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing the federal water quality criteria listed below, as Puerto Rico’s criteria have been determined to meet the requirements of the CWA and EPA’s implementing regulations at 40 CFR part 131.

- Chromium VI (aquatic life—marine water (acute and chronic))
- Mercury (aquatic life—freshwater (chronic) and marine water (chronic))
- Thallium (human health—water & organisms and organisms only)
- Dioxin (human health—water & organisms and organisms only)
- Dichlorobromomethane (human health—water & organisms and organisms only)
- Benzo(a)Pyrene (human health—water & organisms and organisms only)
- Benzo(b)Flouranthene (human health—water & organisms and organisms only)
- Benzo(k)Flouranthene (human health—water & organisms and organisms only)
- Chrysene (human health—water & organisms and organisms only)
- Dibenzo(a,h)Anthracene (human health—water & organisms and organisms only)
- Fluorene (human health—organisms only)
- Indeno(1,2,3-cd) Pyrene (human health—water & organisms and organisms only)
- Isophorone (human health—water & organisms and organisms only)
- alpha-BHC (human health—water & organisms and organisms only)
- beta-BHC (human health—water & organisms and organisms only)
- gamma-BHC (aquatic life—freshwater (chronic))
- alpha-Endosulfan (aquatic life—marine water (acute and chronic))
- beta-Endosulfan (aquatic life—marine water (acute and chronic))
- Endosulfan Sulfate (human health—water & organisms and organisms only)

- Endrin Aldehyde (human health—water & organisms and organisms only)
- Heptachlor Epoxide (aquatic life—freshwater (acute and chronic) and marine water (acute and chronic))
- PCBs (aquatic life—freshwater (chronic) and marine water (chronic))

The finalization of the proposed actions for Puerto Rico results in the complete removal of Puerto Rico from the NTR.

California

As discussed in the proposal (77 FR 20585; April 5, 2012), this final rule withdraws cyanide criteria applicable to San Francisco Bay, California, which EPA approved on July 22, 2008, from the NTR and makes conforming edits to the CTR regulations found in 40 CFR part 131. EPA’s actions which approve California’s adopted objectives can be accessed at OW docket number EPA–HQ–OW–2012–0095.

Today, EPA is withdrawing those federal water quality criteria for which California’s criteria have been determined to meet the requirements of the CWA and EPA’s implementing regulations at 40 CFR part 131. This final rule will result in the withdrawal of saltwater aquatic life cyanide criteria for San Francisco Bay under the NTR (with conforming changes to the CTR). However, other criteria for cyanide for waters in California that are currently part of the NTR or CTR will remain unchanged in the federal regulations.

II. Statutory and Executive Order Reviews

A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

This action withdraws certain federal requirements applicable to California, New Jersey, and Puerto Rico, 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

1 In the regulatory text, saltwater criteria for cyanide are identified as Columns C1 and C2 of “Compound 14” in National Toxics Rule at 40 CFR 131.36(d)(1)[i], therefore, the proposed withdrawal will remove Column C1 “pollutant 14” and Column C2 “pollutant 14” from the applicable criteria to Waters of San Francisco Bay, at 40 CFR 131.36(d)(10)[ii].
This rule does not impose any new information-collection burden because it is administratively withdrawing federal requirements that are no longer needed in New Jersey, Puerto Rico, and California. It does not include any information-collection, reporting, or recordkeeping requirements. The Office of Management and Budget ("OMB") has, however, previously approved the information-collection requirements contained in the existing regulations 40 CFR Part 131 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2040–0049. The OMB control numbers for EPA’s regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act or 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 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 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 this action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s or SBA’s regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise, which is independently owned and operated and is not dominant in its field.

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 II of the Unfunded Mandates Reform Act or UMRA (Pub. L. 104–1) 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 provisions of Title II of the Unfunded Mandates Reform Act of 1995 or UMRA, 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local, or tribal governments, or the private sector. Thus, this 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 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 of August 4, 1999, entitled “Federalism” (64 FR 43255, August 10, 1999). This rule imposes no regulatory requirements or costs on any state or local governments. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This rule does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule imposes no regulatory requirements or costs on any tribal government. It does not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)

This rule is not subject to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because EPA does not 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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 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 involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations.
The Federal Communications Commission (FCC) is making a technical amendment so that the previously published rules concerning Leased Commercial Access rules that have remained in effect continuously and are still in effect. This document reflects the Leased Commercial Access rules that have remained in effect continuously and are currently still in effect.

February 28, 2008. The document revised rules concerning Leased Commercial Access. Some of the revised rules contained information collections that required approval by OMB. Some other revised rules were held in abeyance pending OMB approval. Finally, some rule revisions were effective without OMB approval. The entire order, FCC 07–208, was judicially stayed pending judicial review, which is being held in abeyance, and no rule revisions have become effective. Therefore, the previously published rules are still in effect. This document makes a technical amendment so that the rules that are published in the Federal Register reflect the Leased Commercial Access rules that have remained in effect continuously and are currently still in effect.