

full compliance (see 57 FR 60860, December 22, 1992).

Under the procedures set out in the National Toxics Rule, published December 22, 1992 (see 57 FR 60860, December 22, 1992), and referenced in the CTR, when a State adopts and EPA approves water quality criteria that meet the requirements of the CWA, EPA will issue a rule amending the Federal regulations to withdraw the Federally applicable criteria. If the State's criteria are no less stringent than the promulgated Federal criteria, EPA will withdraw its criteria without notice and comment rulemaking because additional comment is unnecessary. However, if a State adopts criteria that are less stringent than the Federally-promulgated criteria, but that in the Agency's judgement fully meet the requirements of the Act, EPA will provide an opportunity for public comment before withdrawing the Federally promulgated criteria. As described in detail below under "Site-Specific Aquatic Life Objectives for Copper and Nickel," the State of California recently adopted copper and nickel aquatic life site-specific objectives for the south San Francisco Bay which EPA subsequently approved.

On June 25, 2003, EPA requested comment on its proposed action to withdraw copper and nickel criteria applicable to the south San Francisco Bay from the CTR and received no adverse comments on the proposal (68 FR 37926, June 25, 2003).

#### Site-Specific Aquatic Life Objectives for Copper and Nickel

On May 22, 2002, the California Regional Water Quality Control Board, San Francisco Bay Region, adopted site-specific water quality objectives for nickel and copper to protect aquatic life in the south San Francisco Bay. On October 17, 2002, the State Water Resources Control Board approved the site-specific objectives for copper and nickel in the lower south San Francisco Bay. 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. On January 9, 2003, the SWRCB submitted the site-specific objectives to EPA Region 9 for review and approval.

The saltwater aquatic life water quality criteria for dissolved copper contained in the CTR table at 40 CFR 131.38(b)(1) are: 4.8 ug/l acute (exposure for a short period of time) and 3.1 ug/l chronic (exposure for an extended [4 day] period of time). The saltwater aquatic life water quality criteria for dissolved nickel contained in

the CTR table at 40 CFR 131.38(b)(1) are: 74 ug/l acute (exposure for a short period of time) and 8.2 ug/l chronic (exposure for an extended [4 day] period of time). Both the copper and nickel criteria are further expressed as a function of the water-effect ratio (WER). The WER in the CTR is assumed to be 1 for all applicable pollutants but may be otherwise defined by the State using appropriate procedures (see 65 FR 31718).

The aquatic life water quality objectives for dissolved copper adopted by the State of California and approved by EPA for south San Francisco Bay are: 10.8 ug/l acute (exposure for a 1 hour average period of time) and 6.9 ug/l chronic (exposure for a 4 day average period of time). The aquatic life water quality objectives for dissolved nickel adopted by the State of California and approved by EPA for south San Francisco Bay are: 62.4 ug/l acute (exposure for a 1 hour average period of time) and 11.9 ug/l chronic (exposure for a 4 day average period of time).

EPA recognizes that three out of the four California criteria for copper and nickel are less stringent than the Federally promulgated criteria in the CTR. However, the site-specific objectives were developed from the results of a number of detailed studies and technical reports that were the subject of technical peer review and were part of the collaborative stakeholder process known as the "Santa Clara Basin Watershed Management Initiative." Based on this additional information, EPA determined that these adopted criteria are fully protective of the aquatic life designated uses of California's waters in the south San Francisco Bay and meet the requirements of the Clean Water Act. EPA approved California's water quality objectives on January 21, 2003. Therefore, EPA has determined that the Federal aquatic life water quality criteria for copper and nickel in these waters are no longer necessary.

Because three out of the four California criteria for copper and nickel are less stringent than the Federally promulgated criteria, on June 25, 2003, EPA requested comments on its proposed action to withdraw copper and nickel criteria from the CTR. On July 25, 2003, EPA received two letters in support of the proposed withdrawal action. No other comments were received regarding the proposed action. EPA is therefore publishing this final rule to withdraw the copper and nickel aquatic life criteria for south San Francisco Bay from the CTR.

#### Statutory and Executive Order Reviews

##### 1. Executive Order 12866—Regulatory Planning and Review

This action withdraws specific Federal requirements applicable to south San Francisco Bay, California 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 Office of Management and Budget (OMB) review.

##### 2. Paperwork Reduction Act

This final 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.*) because it is administratively withdrawing Federal requirements that no longer need to apply to south San Francisco Bay, California.

##### 3. 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 final 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.

##### 4. Unfunded Mandate 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 final 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 final rule is not subject to the requirements of UMRA section 202 and 205 for a written statement and small government agency plan. Similarly, EPA has determined that this final rule contains no