(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it would compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (j)(2) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(M) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation (this part 505), but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of this nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

(19) *System identifier:* A0340–21 TAPC

(i) *System name:* Privacy Case Files.

(ii) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Army hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are part. Therefore, information within this system of records may be exempt pursuant to 5 U.S.C. 552a, subsection (d).

(iii) Authority: 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iv) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

Dated: August 1, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–19815 Filed 8–8–01; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

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

[WH–FRL–7024–6]

RIN 2040–AD22

Delay of 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.

ACTION: Notice of proposed rulemaking.

SUMMARY: Today's action proposes to delay by 18 months the effective date of a rule 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 Total Maximum Daily Loads (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 necessary National Pollutant Discharge Elimination System (NPDES) permits are issued to implement TMDLs.

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 the

Military Construction Appropriations Act: FY 2000 Supplemental Appropriations. This provision prohibited EPA from using funds made available for fiscal years 2000 and 2001 ''to make a final determination on or implement'' the July 2000 TMDL rule. The spending prohibition is scheduled to expire on September 30, 2001 and, barring further action by Congress or EPA, the rule will go into effect 30 days later on October 30, 2001.

Based on the 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.

In addition, in response to the NRC report, today's action proposes to revise the date on which States are required to submit the next list of impaired waters. EPA is proposing to revise the date from April 1, 2002 to October 1, 2002. This delay is intended to provide time for EPA to issue guidance incorporating some of the NRC's recommendations regarding the methodology used to develop the list and the content of the list.

DATES: Written comments on this proposed rule should be submitted by September 10, 2001. Comments provided electronically will be considered timely if they are submitted by 11:59 P.M. September 10, 2001.

ADDRESSES: You may send written comments on this proposed rule to the W–98–31–III TMDL Comments Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 1200 Pennsylvania Ave., NW, Washington, DC 20460. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency; 401 M Street, SW; EB–57; Washington, DC 20460; (202) 260–3027 between 9 a.m. and 4:00 p.m. Eastern Time, Monday through Friday excluding legal holidays. Comments may be submitted electronically to *ow-docket@epa.gov.* The proposed rule and supporting documents are available for review in the Water Docket at the above address. An electronic version of this proposal will be available via the Internet at: <http://www.epa.gov/OWOW/tmdl/delay.

FOR FURTHER INFORMATION CONTACT: For information about today's proposal, contact: Francoise M. Brasier, U.S. EPA Office of 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 likely to be 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. Additional Information for Commenters

Please submit an original and three copies of your comments and enclosures (including references). To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency would prefer that commenters discuss the proposed delay of the effective date of the July 2000 rule and the proposed delay of the due date for the 2002 list of impaired waters separately. Electronic comments must be submitted as a WordPerfect 5.1, WP6.1 or WP8 file or as an ASCII file avoiding the use of special characters. Comments and data will also be accepted on disks in WP 5.1, WP6.1 or WP8, or ASCII file format. Electronic comments on this action may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) or submissions in other electronic formats (e.g., Word, pdf, Excel) will be accepted.

The docket for this rulemaking has been established under number W–98–31–III. 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, D.C. For access to docket materials, please call (202) 260–3027 to schedule an appointment. Every user is entitled to xerox 100 free pages before incurring a charge. Above this quantity, the Docket may charge 15 cents a page.

I. Basis for Today's Action and Request for Comment

A. Why Did EPA Publish the July 13, 2000 Rule?

EPA published a final rule on July 13, 2000 (65 FR 43586) amending the Agency's existing regulations implementing the CWA's TMDL and NPDES programs. The final regulations were intended to:

a. Provide for a complete national accounting of impaired waterbodies and tracking of progress towards restoration and clean-up;

b. clarify and provide more specificity regarding the required elements of a comprehensive TMDL program;

c. achieve national consistency in all elements of the TMDL program;

d. require implementation plans as a specific element of a TMDL under 303(d)

e. require documentation of reasonable assurance that reliable nonpoint source controls would be implemented in order to share load reductions between point and nonpoint sources;

f. require that TMDLs be established at an even pace in the 10 to 15 years following the time a waterbody is first listed;

g. prescribe when EPA would step in to do lists and TMDLs for States, Territories or authorized Tribes;

h. require EPA to issue NPDES permits implementing TMDL wasteload allocations within two years of TMDL establishment, when it is the permitting authority; and

i. require EPA to use its authority to step-in when States fail to revise and re-issue permits needed to implement TMDL wasteload allocations.

B. Why Does EPA Want To Undertake a Further Review of the TMDL Regulations?

As EPA was developing the final rule, many organizations and individuals expressed reservations about the proposed requirements of the rule. The proposal had generated significant concerns and EPA had received more than 34,000 comments on the proposed rule. Because of the controversy, Congress enacted an amendment to the Military Construction Appropriations Act: FY 2000 Supplemental Appropriations (Pub. L. 106–426). This provision prohibited EPA from using funds made available for fiscal years 2000 and 2001 ''to make a final determination on or implement'' the July 2000 TMDL rule. This Act was signed by the President on July 14, 2000 effectively prohibiting EPA from implementing the final regulations which had been signed by the Administrator on July 11, 2000. Anticipating that the amendment would go into effect, EPA provided that the effective date of the regulations would be 30 days after the date that Congress allowed EPA to implement the regulations.

EPA's decision to promulgate the July 2000 regulations and the content of the final regulations have generated concerns expressed in letters, testimony, public meetings, Congressional action, and litigation. States, business and industry groups, agriculture and forestry organizations, and local governments have questioned the scope, complexity, cost, and inflexibility of some of the new requirements and have challenged the basis for and appropriateness of some of the new requirements. EPA is listing below some examples of concerns that have been identified to date. State officials and their representatives have expressed concerns about the capacity of State governments to carry out the many new requirements in the final rule and assert that the rule interferes with State authority. Other State objections include criticism that specific load and wasteload allocations in TMDLs, together with the time frames to complete TMDLs and implement them, will limit opportunity for stakeholder involvement in defining equitable point and nonpoint source controls. States have also indicated their concern about the role of EPA in administration of authorized NPDES programs, particularly the rule provisions regarding EPA objection to state-issued expired and administratively-continued permits in order to implement wasteload allocations.

Local government officials have objected to TMDL allocation approaches that could result in municipal point sources bearing an inequitable share of the pollutant load reductions needed to attain water quality standards. Agriculture, forestry, cattle and poultry groups have expressed their concern that the new implementation plan requirement places EPA in an inappropriate position for dealing with nonpoint source controls and that the rule does not allow for adaptive management. Some assert that there is not enough data to support TMDLs, that some pollutants are not suitable for TMDL calculation, that the section 303(d) lists are not based on scientifically-defensible data, or that the delisting criteria are too inflexible.

Environmental groups have expressed their concern that the rule does not do enough to address water quality impairments from nonpoint sources, and have argued that the new schedules in the rule unlawfully extend Clean Water Act deadlines. They also object to EPA's interpretation of what constitutes lack of substantial progress in developing TMDLs, and believe that the rule should specify that EPA immediately act upon a State, Territory or authorized Tribe's failure to meet a deadline.

Many of these concerns are reflected in recent lawsuits challenging the July 2000 rule. Currently ten petitions have been filed by States, industrial and agricultural groups, and environmental organizations asserting that EPA's July 2000 rule exceeds the Agency's authority under section 303(d) of the Clean Water Act. In addition, several groups have intervened in these lawsuits. The issues raised by the petitioners include the scope and content of the section 303(d) list, the elements of an approvable TMDL, scheduling and backstopping of TMDLs, and the change to the NPDES regulations addressing administrative continuance of permits.

Finally, in the FY 2001 Appropriations Bill, Congress directed EPA to contract with the National Academy of Sciences to evaluate the adequacy of scientific methods and approaches currently available to support development and implementation of TMDLs. The report is available from the National Academy Press. In general, the report is supportive of the TMDL program. However, it includes several recommendations which EPA needs to analyze carefully to determine whether these recommendations can be implemented in the context of the July 2000 rule. Particularly, EPA is examining how the July 2000 rule would need to be revised in order to respond to the NRC's recommendations, including its findings that ''many waters now on State 303(d) lists were placed there without the benefit of adequate water quality standards, data or waterbody assessment'' and the NRC's recommendation that ''adaptive implementation is needed to ensure that the TMDL program is not halted because of a lack of data and information, but rather progresses while better data are collected and analyzed with the intent of improving upon initial TMDL plans.''

While no one rule will satisfy all of these concerns, taken together, the concerns expressed by States and other interested parties raise a significant question as to whether the rule sets out a workable and effective approach to meeting Clean Water Act goals.

C. What Is EPA Proposing Today?

1. Delay of the Effective Date of the July 2000 Rule

Today, EPA is proposing to delay the effective date of the TMDL rule until April 30, 2003, to allow time for reconsideration of specific aspects of the rule. EPA intends to use this time to:

- Fully analyze the findings and recommendations of the NRC report;
- Discuss better ways to construct the TMDL program with a broad array of interested parties; and
- Revise the TMDL rules through a notice and comment process.

EPA believes that an 18-month delay of the effective date is the minimum necessary for the Agency to be able to go through a meaningful consultation process, analyze and reconcile the

recommendations of the various stakeholders and implement program changes. During that delay the program will continue to operate under the 1985 TMDL regulations as amended in 1992 at 40 CFR Part 130. Under these regulations, the States and EPA will continue to make significant progress in restoring impaired waters. EPA expects to approve more than 1,500 TMDLs in FY 2001 and is working with the States to improve the technical underpinnings of the program through a series of State/EPA regional forums sponsored by EPA and the Association of State and Interstate Water Pollution Control Administrators and development of technical guidance such as the recently released protocol for developing pathogen TMDLs.

2. Revision of the Due Date on Which States Are Required To Submit the 2002 List of Impaired Waters

Section 130.7 (d)(1) requires that States submit a list of water quality limited segments still requiring TMDLs on April 1 of every even-numbered year. Under this requirement the next list would be due on April 1, 2002. However, EPA has been unable to issue guidance to the States, Territories or authorized Tribes regarding the development of that list because of the uncertainty regarding which set of regulations would control the listing process in 2002, and the Congress's prohibition on spending funds to implement the July 2000 rule. In addition the NRC report provides a number of recommendations for improving the listing process which EPA is considering implementing to the extent they are consistent with the Clean Water Act and the existing regulations. In order to do this, EPA believes that it would have to develop and issue guidance regarding development of the States' 2002 lists that takes into account the various recommendations of the NRC. However, EPA does not believe there is enough time to allow States, Territories and authorized Tribes to be able to participate in the development of that guidance and to use it to develop lists by April 1, 2002, EPA, therefore, believes that it would be appropriate to revise the date for submission of the 2002 lists to be October 1, 2002. A delay of six months will afford EPA the time to develop such guidance and make it available to the States for use in compiling their 2002 lists. Moreover, EPA does not believe that this brief delay of the due date for these lists will in any way pose a risk to public health or jeopardize the clean-up of the Nations's impaired waters. EPA and the States will continue to develop TMDLs based on the 1998 lists. EPA is not aware of any State where postponing the 2002 list will affect the number of TMDLs to be developed in 2002.

The proposed rule includes a limited exception that would retain the existing requirement for a State to submit a 2002 list by April 1, 2002, if a court order or consent decree or commitment in a settlement agreement expressly requires EPA to take an action related to the State's 2002 list prior to October 1, 2002. In recent years, litigation under Section 303(d) has resulted in court orders, consent decrees, and settlement agreements in a number of States related to EPA obligations in implementing Section 303(d). In order to enable EPA to meet a commitment embodied in a court order, consent decree, or settlement agreement, today's proposed rule would retain the existing requirement for a State to submit a list by April 1, 2002 if a court order or consent decree or commitment in a settlement agreement expressly requires EPA to take an action related to the State's 2002 list prior to October 1, 2002. The Act grants EPA the discretionary authority to interpret the requirement that States submit lists ''from time to time.'' In the exercise of this authority EPA believes that it is appropriate to continue to require a list by April 1, 2002 in those States in which the absence of a list on that date would unsettle an existing court order, consent decree or commitment in a settlement agreement. EPA has reviewed the consent decrees, court orders, and settlement agreements in cases involving the TMDL program and believes the only order, consent decree, or settlement agreement with a requirement for EPA to take an action expressly related to the 2000 list before October 1, 2001, is a consent decree for Georgia.

3. Request for Comment

EPA will consider comments received during the comment period for this notice that address the proposed delay of the July 2000 TMDL rule's effective date, and EPA will decide whether to issue a final delay of the effective date by September 30, 2001. The effect of this delay would be that the TMDL program would continue to operate under the rules promulgated in 1985, as amended in 1992, at 40 CFR Part 130. EPA will also consider comments that address the proposed revision of the due date of the next section 303(d) list to October 1, 2002 and decide whether to promulgate this amendment by September 30, 2001. In addition, EPA will consider comments on its proposal to retain the existing April 1, 2002, due date if a court order, consent decree, or commitment in a settlement agreement expressly requires EPA to take an action related to the State's 2002 list prior to October 1, 2002. EPA also solicits public comment on whether there are any such orders, consent decrees, or settlement agreements other than a consent decree in Georgia, as noted above. If there are, and if EPA revises the due date to October 1, 2002, as proposed, EPA will notify those States and will identify those States in the notice of final rulemaking as States, subject to the exception, in which submission of a year 2002 list by April 1, 2002, would be required. EPA solicits comments whether to include this exception in the final rule.

II. 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed action does not impose any requirements on anyone, including small entities.

F. 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 (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 proposed 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 proposal 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 would merely delay 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.

In the spirit of Executive Order 13132, and in accordance with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this

proposed rule from State and local officials.

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 proposed rule would merely delay the effective date of the July 2000 TMDL Rule and delay the due date of the April 1, 2002 lists. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and in accordance with EPA policy to promote communications between EPA and Tribal governments, EPA specifically solicits additional comment on this proposed rule from Tribal officials.

I. Plain Language Considerations

The agency is required to write all rules in plain language. EPA invites public comment on how to make this proposed rule easier to understand. Comments may address the following questions and other factors as well:

A. Has EPA organized the material to suit your needs?

B. Are the requirements in the rule clearly stated?

C. Does the rule contain technical wording or jargon that is not clear?

D. Would a different format (grouping or order of sections, use of headings, paragraphing) make the rule easier to understand?

E. Would more (but shorter) sections be better?

F. Could EPA improve clarity by using additional tables, lists or diagrams?

G. What else could EPA do to make the rule easier to understand?

J. 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: July 31, 2001.

Christine T. Whitman,

Administrator.

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

For the reasons stated in the preamble, EPA proposes:

1. To delay the effective date of the amendments to 40 CFR part 9, 122, 123, 124 and 130 published July 13, 2000 (65 FR 43586) until April 30, 2003.

2. To amend 40 CFR part 130 to read as follows:

PART 130—WATER QUALITY PLANNING AND MANAGEMENT

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

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

b. Section 130.7 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.

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(d) * * * (1) * * * For the year 2002 submission, States 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 the 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. 01–20017 Filed 8–8–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4122b; FRL–7027–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology for the Allegheny Ludlum Corporation's Brackenridge facility, a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 10, 2001.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief,