requirements than the 1992 rule, the Agency is reducing any potential costs. It is important to note that the Federal criteria in today's rule, as the Federal criteria in the 1992 rule, only impose requirements until the States adopt, and EPA approves, criteria meeting the requirements of section 303(c)(2)(B) of the Clean Water Act. EPA continues to work with the States to assist them in adopting their own criteria thereby enabling EPA to withdraw the Federal criteria.

While section 205 of the Unfunded Mandates Act is not applicable to today's rule because the rule does not require a written statement under section 202, the Agency does believe that today's rule is consistent with the intent of section 205. Section 205 directs agencies to consider regulatory alternatives and to select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA's decision to promulgate metals criteria expressed as dissolved rather than total recoverable represents the Agency's selection of the least costly, most costeffective and least burdensome alternative for setting metals criteria. The Agency addressed this issue in detail in the development of the Great Lakes Water Quality Guidance, promulgated on March 13, 1995 (60 FR 15366, March 23, 1995). For today's rule the Agency was obligated pursuant to section 303 to promulgate water quality criteria for states not in compliance with section 303(c)(2)(B). Today's rule achieves that objective consistent with the intent of section 205.

Finally, because today's rule relieves a regulatory requirement, EPA does not believe that the rule will establish requirements that might significantly or uniquely affect small governments within the meaning of section 203. However, the Agency is committed to working with affected small governments by providing notice of requirements that might potentially affect them, enable them to provide meaningful and timely input, and to inform, educate and advise small governments on compliance with any requirements. With respect to today's interim final rule, representatives of State and local governments participated in the development of, and provided comments to the Office of Water's current metals policy. The Agency recognizes the importance of

soliciting the input of small governments and will be available to work with them to address any issues related to compliance with today's rule.

2. Executive Order 12866

Under Executive Order 12866 (56 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis and review by the Office of Management and Budget). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this order. Pursuant to the terms of this order, EPA has determined that this interim final rule would not be 'significant''.

3. Presidential Review of the Code of Federal Regulations

On February 22, 1995, President Clinton announced a review of the Code of Federal Regulations by all Federal agencies. The objective of the review is to: eliminate obsolete regulations, withdraw outdated or superseded regulations, propose modifications to simplify or reduce burden, and to identify legislation for needed change. Today's rule, revising the NTR, is consistent with the review announced by the President. EPA has reviewed the NTR (40 CFR 131.36) and determined that the use of dissolved metals criteria in the NTR States, for the metals listed in this rule, should reduce potential regulatory burden.

4. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, Pub. L. 96–354) requires EPA to assess whether its

regulations create a disproportionate effect on small entities. EPA discussed in the NTR rulemaking (December 22, 1992, 57 FR 60909), the potential effects of the rulemaking on small entities. The Agency concluded that the rulemaking would not result in a significant impact on small entities and a final regulatory flexibility analysis was not required.

Because the potential impact on small entities as a result of this interim final rule revision will be less burdensome on small entities than the original rule, EPA, based on the same factors discussed in the previous final rulemaking, continues to conclude this action will not result in a significant impact on small entities.

5. Paperwork Reduction Act

This interim final rule places no information collection activities on the affected States and therefore no information collection requirement will be submitted to the Office of Management and Budget for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 131

Environmental Protection, Water pollution control, Water quality standards, Toxic pollutants.

Dated: April 14, 1995.

Carol Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I part 131 of the Code of Federal Regulations 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.

2. Section 131.36 is amended by revising entries 2, 4, 5a,5b,6,7,8,9,10,11, and 13 of the table at paragraph (b)(1), revising footnotes "e" and "1" adding footnotes "o" and "p" to the table in paragraph (b)(1), removing the "Note to paragraph (b)(1)", revising paragraph (b)(2) and by revising the first two sentences of paragraph (c)(4)(iii) to read as follows:

§131.36 Toxics criteria for those States not complying with Clean Water Act Section 303(c)(2)(B).

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