representatives of local governments early in the development of this regulation as well as more comprehensively in February 1995.

This rule was also coordinated with EPA's American Indian Environment Office (AIEO). The Office of Water will work through the AIEO to provide for a Tribal representative to participate in the FACA process.

EPA believes that it has developed an effective process to obtain input from State, Tribal and local governments before issuing this rule, as well as receiving comments on the direct final rule and accompanying proposed rulemaking, and has met the consultation requirements for States, federally recognized Tribes and localities under the terms of Executive Order 12875.

C. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by the Office of Management and Budget.

EPA's existing information collection request (ICR) entitled "Application for NPDES Discharge Permit and Sewage Sludge Management Permit" (OMB Number 2040–0086) contains information that responds to this issue for all storm water discharges, including those facilities designated into the program under this regulation as causing water quality problems. The burden of similar water quality designations, utilized under the phase I storm water program, were accounted for in the ICR and remain applicable to the designations that may be made under this rule. EPA will review and revise the estimates contained in this ICR, as appropriate, in its renewal process.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for regulations having a significant impact on a substantial number of small entities. The RFA recognizes three kinds of small entities, and defines them as follows:

(1) Small governmental jurisdictions—any government of a district with a population of less than 50,000. (2) Small business—any business which is independently owned and operated and not dominant in its field, as defined by the Small Business Administration regulations under the Small Business Act.

(3) Small organization—any not-forprofit enterprise that is independently owned and operated and not dominant in its field.

EPA has determined that today's rule would not have a significant impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis therefore is unnecessary. Through today's action EPA is benefiting small entities by (1) adopting a common sense approach to deal with the issue of storm water phase II requirements, (2) providing the ability for the permitting authority to manage for results by providing flexibility to deal with storm water phase II permitting at this time based on water quality violations or significant contribution of pollutants, and (3) clarifying and reducing applicable burdens for those facilities currently subject to phase II requirements. The rule provides additional time for EPA to work with all stakeholders, including small entities, to develop additional phase II regulations under a FACA process. The Agency is committed to issue these supplemental phase II regulations by March 1, 1999; in that rulemaking EPA will reconsider its Regulatory Flexibility Act analysis.

E. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a written statement to accompany proposed rules where the estimated costs to State, local, or tribal governments, or to the private sector, will be \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of such a rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely affected by any rule.

EPA estimates that the costs to State, local, or tribal governments, or the private sector, from this rule will be less than \$100 million. This rulemaking significantly reduces the immediate regulatory burden imposed on phase II facilities. EPA has determined that an unfunded mandates statement therefore is unnecessary.

Although not required to make a finding under section 206, EPA concludes that this rule is cost-effective and a significant reduction in burden for State and local governments. In a September 9, 1992, Federal Register notice, EPA invited public consideration of and comment on reasonable alternative approaches for the phase II storm water program. Today's rule provides for the first step for many of those alternatives by providing for an orderly process for developing supplemental regulations. By establishing regulatory relief until development of those alternative approaches, today's rulemaking itself provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule at this stage, consistent with statutory requirements.

As discussed previously, EPA initiated consultation with representative organizations of small governments under Executive Order 12875. In doing so, EPA provided notice to potentially affected small governments to enable them to provide meaningful and timely input. EPA plans to inform, educate, and advise small governments on compliance with any requirements that may arise in further development of the storm water phase II rules.

F. Procedural Requirements and Effective Date

Today's rule is effective on August 7, 1995. Section 553 of the APA provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date except, as relevant here, (1) for a substantive rule which grants or recognizes an exemption or relieves a restriction or (2) when the agency finds and publishes good cause for foregoing delayed effectiveness. Today's rule relieves phase II dischargers from the immediate requirement to obtain a permit. Additionally, the Agency has determined that good cause exists for making this regulation effective immediately because today's final rule does not differ from the withdrawn direct final rule which would have become effective on August 7, 1995.

List of Subjects

40 CFR Part 122

Enviromental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.