

ENVIRONMENTAL PROTECTION AGENCY

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

[WH-FRL-7470-2]

RIN 2040-AD84

Withdrawal 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 Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today's action withdraws the final rule entitled "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 Regulation ("the July 2000 rule") published in the **Federal Register** on July 13, 2000. The July 2000 rule amended and clarified existing regulations implementing a section of the Clean Water Act (CWA) that requires States to identify waters that are not meeting applicable water quality standards and to establish pollutant budgets, called Total Maximum Daily Loads (TMDLs), to restore the quality of those waters. The July 2000 rule also amended EPA's National Pollutant Discharge Elimination System ("NPDES") regulations to include provisions addressing implementation of TMDLs through NPDES permits. The July 2000 rule has never become effective; it is currently scheduled to take effect on April 30, 2003. Today, EPA is withdrawing the July 2000 rule, rather than allow it to go into effect, because EPA believes that significant changes would need to be made to the July 2000 rule before it could represent a workable framework for an efficient and effective TMDL program. Furthermore, EPA needs additional time beyond April 30, 2003, to decide whether and how to revise the currently-effective regulations implementing the TMDL program in a way that will best achieve the goals of the CWA. The withdrawal of the July 2000 rule will not impede ongoing implementation of the existing TMDL program. Regulations that EPA promulgated in 1985 and amended in 1992 remain in effect for the TMDL program. EPA has been working steadily to identify regulatory and nonregulatory

options to improve the TMDL program and is reviewing its ongoing implementation of the existing program with a view toward continuous improvement and possible regulatory changes in light of stakeholder input and recommendations.

DATES: The July 2000 rule amending 40 CFR parts 9, 122, 123, 124 and 130, published on July 13, 2000, at 65 FR 43586, is withdrawn as of April 18, 2003. This rule is considered final for purposes of judicial review as of 1 p.m. eastern time, on April 2, 2003, as provided in 40 CFR 23.2.

ADDRESSES: The complete record for the final rule, Docket ID No. OW-2002-0037, is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information about today's final rule, contact: Francoise M. Brasier, U.S. EPA Office of Wetlands, Oceans and Watersheds (4503T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, phone (202) 566-2385.

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 Final Rule

TABLE OF POTENTIALLY REGULATED ENTITIES

Category	Examples of potentially regulated entities
Governments	States, Territories and Tribes with CWA responsibilities

This 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. 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. How Can I Get Copies of This Document and Other Related Information

EPA has established an official public docket for this action under Docket ID No. OW-2002-0037. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. For access to docket materials, please call ahead to schedule an appointment. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket> to view public comments, access the index listing of the contents of the official public docket and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility previously mentioned. Once in the electronic system, select "search" and then key in the appropriate docket identification number.

D. Explanation of Today's Action

I. Background

On December 27, 2002, EPA proposed to withdraw final regulations affecting the TMDL program (67 FR 79020) that were published in the **Federal Register** on July 13, 2000 (65 FR 43586). Among other things, the July 2000 rule was intended to resolve issues concerning the identification of impaired waterbodies by promoting more comprehensive inventories of impaired waters. The rule was also intended to improve implementation of TMDLs by requiring EPA to approve, as part of the TMDL, implementation plans containing lists of actions and expeditious schedules to reduce pollutant loadings. Finally, the rule included changes to the NPDES program to assist in implementing TMDLs and to better address point source discharges to waters not meeting water quality standards prior to establishment of a TMDL.