

promulgated Federal criteria for nutrients in Arizona. The Federal criteria consisted of numeric ambient water quality criteria for nutrients for eleven river segments and narrative water quality criteria for nutrients applicable to all surface waters in Arizona. Arizona has now adopted its own numeric and narrative water quality criteria for nutrients, which EPA has approved. Arizona has also established and EPA has approved implementation procedures for its narrative nutrient water quality criteria. Therefore, EPA has determined that the Federally promulgated criteria for Arizona are no longer needed and is withdrawing the Federal criteria for nutrients in Arizona.

DATES: This rule is effective on December 8, 2003.

ADDRESSES: The supporting record for this decision may be inspected at EPA Region 9, 75 Hawthorne Street, Water Division, Clean Water Act Standards and Permits Office, San Francisco, CA 94105, Monday through Friday, excluding legal holidays, during normal business hours of 9 a.m. to 5:00 p.m. Please contact Gary Sheth, as listed in the **FOR FURTHER INFORMATION CONTACT** section, before arriving.

A copy of Arizona's water quality standards may be obtained electronically from EPA's Water Quality Standards Repository, at <http://www.epa.gov/waterscience/wqs/>.

FOR FURTHER INFORMATION CONTACT: Gary Sheth at EPA Region 9, Water Division, Clean Water Act Standards and Permits Office (WTR-5), 75 Hawthorne Street, San Francisco, CA 94105 (tel: 415-972-3516, fax: 415-947-3545) or e-mail to sheth.gary@epa.gov, or Kellie Kubena at EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave, NW., Washington, DC 20460 (tel: 202-566-0448, fax: 202-566-0409) or e-mail to kubena.kellie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Potentially Regulated Entities

No one is regulated by this rule. This rule merely withdraws certain Federal water quality criteria for nutrients applicable in Arizona.

II. Background

A. What Are the Statutory and Regulatory Requirements Relevant to This Action?

Section 303(c) (33 U.S.C. 1313(c)) of the Clean Water Act (CWA or Act) directs States, with oversight from EPA, to adopt water quality standards to protect the public health and welfare, enhance the quality of water and serve

the purposes of the Act. States are required to develop water quality standards for waters of the United States within the State. Section 303(c) and EPA's implementing regulations provide that a water quality standard shall include the designated use or uses to be made of the water, the water quality criteria necessary to protect those uses, and an antidegradation policy. 33 U.S.C. 1313(t)(2)(A); 40 CFR 131.10-.12. States may also include in their water quality standards policies generally affecting the standards' application and implementation. 40 CFR 131.6(f); 40 CFR 131.13. States are required to review their water quality standards at least once every three years and, if appropriate, revise or adopt new standards. 33 U.S.C. 1313(c)(2). States are required to submit the results of their reviews to EPA. EPA then reviews the State's standards for consistency with the CWA and EPA's implementing regulations at 40 CFR part 131 and approves or disapproves any new or revised standards. 33 U.S.C. 1313(c)(3). Section 303(c)(4) of the CWA authorizes EPA to promulgate water quality standards when necessary to supersede disapproved State water quality standards, or in any case where the Administrator determines that new or revised standards are necessary to meet the requirements of the CWA.

EPA may issue a rule to withdraw Federal water quality standards promulgated for a State when the State adopts, and EPA approves, State water quality standards that meet the requirements of the CWA and the implementing Federal regulations. That is the situation here.

B. What Actions Have EPA and Arizona Taken in the Past Relating to Water Quality Standards for Nutrients in the State?

In 1976, EPA determined that water quality standards for nutrients submitted by Arizona as of that time did not meet the CWA's requirements. On June 22, 1976, EPA promulgated Federal numeric nutrient criteria for total phosphates applicable to eleven river segments in Arizona, Federal numeric nutrient criteria for total nitrates applicable to four waterbodies, and Federal narrative nutrient criteria applicable to all surface waters of the United States in Arizona. See 40 CFR 131.31(a); 41 FR 25000 (June 22, 1976). Although EPA used the phrase *nutrient standards* to describe the water quality criteria for nutrients codified at 40 CFR 131.31(a), in today's action, EPA is using the more precise term *criteria* to refer to the Federal water quality criteria

for nutrients in Arizona that EPA is withdrawing.

Since EPA's promulgation of nutrient water quality criteria in 1976, EPA has approved the numeric and narrative water quality criteria for nutrients adopted by Arizona. See, e.g., EPA's **Federal Register** notices of approvals at 53 FR 4209 (Feb. 12, 1988); 58 FR 62124 (Nov. 24, 1993); 60 FR 51793 (Oct. 3, 1995). Specifically, in a series of actions, the Arizona Department of Environmental Quality (ADEQ) adopted, and EPA approved, numeric nutrient criteria for total nitrogen and total phosphorous applicable to specific water bodies in Arizona. See Arizona Administrative Code, R18-11-109, 11-110, and 11-112. Arizona has also adopted and EPA has approved narrative nutrient criteria applicable to all surface waters of the State. See Arizona Administrative Code, R18-11-108. Arizona's narrative nutrient criteria provide that "navigable waters shall be free from pollutants in amounts or combinations that cause the growth of algae or aquatic plants that inhibit or prohibit the habitation, growth or propagation of other aquatic life or that impair recreational uses". See Arizona Administrative Code, R18-11-108.A.5.

In January 1996, ADEQ established implementation procedures for its narrative nutrient water quality criteria (see Arizona's *Implementation Guidelines for the Narrative Nutrient Standard* (http://www.sosaz.com/public_services/Title_18/18_table.htm)). On April 26, 1996, EPA approved these implementation procedures. On May 7, 1996, EPA promulgated additional water quality standards for Arizona, noting that the State had identified its own implementation procedures to translate its narrative criteria. See 61 FR 20686 (May 7, 1996). Although EPA did not specifically address the continuing need for the 1976 Federal nutrient criteria, EPA observed in that notice that Arizona's numeric and narrative nutrient criteria, as supplemented by the State's newly established implementation procedures, were consistent with the CWA. See 61 FR 20692 (May 7, 1996). Consistent with this earlier finding, EPA has determined that the 1976 Federal criteria for nutrients for Arizona waters are redundant and no longer necessary. On July 30, 2001, EPA proposed to withdraw the Federal water quality criteria for nutrients applicable to Arizona surface waters at 40 CFR 131.31(a). (See Section III for a discussion of comments received). EPA is now finalizing its decision to withdraw federally promulgated nutrient criteria applicable to Arizona.