

the State submitted the site-specific objectives to EPA Region 9 for review and approval. On January 21, 2003, EPA Region 9 approved the copper and nickel aquatic life site-specific objectives for south San Francisco Bay.

Since the State of California now has aquatic life site-specific objectives, effective under the Clean Water Act (CWA), for copper and nickel for south San Francisco Bay, EPA has determined that the federally-promulgated copper and nickel aquatic life criteria are no longer needed for south San Francisco Bay. On June 25, 2003, EPA requested comment on its proposed action to withdraw copper and nickel criteria applicable to the south San Francisco Bay from the CTR. EPA did not receive any adverse comments concerning EPA's proposal to withdraw the copper and nickel aquatic life criteria applicable to south San Francisco Bay from the CTR and is therefore publishing this final rule.

EFFECTIVE DATE: This rule is effective November 6, 2003.

ADDRESSES: The public docket for today's final rule is available for public inspection at the U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, between the hours of 8 a.m. and 4:30 p.m. For access to the public docket, call Diane E. Fleck at 415-972-3480 or Nancy Yoshikawa at 415-972-3535 for an appointment. A reasonable fee may be charged for photocopies. The public docket may also be viewed electronically by following the instructions as provided under "How to Obtain Copies of This Document and Other Related Information."

FOR FURTHER INFORMATION CONTACT: Diane E. Fleck, P.E., Esq. (WTR-2) or Nancy Yoshikawa (WTR-5) at U.S. EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, CA 94105 (tel: 415-972-3480 or 415-972-3535, respectively, fax: 415-947-3537 or 415-974-3545, respectively) or e-mail at Fleck.Diane@EPA.gov or Yoshikawa.Nancy@EPA.gov. For general or administrative questions, please contact Manjali Vlcán at U.S. EPA Headquarters, Office of Water, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (tel: 202-566-0373, fax: 202-566-0409) or e-mail at Vlcán.Manjali@EPA.gov.

SUPPLEMENTARY INFORMATION:

Effective Date

EPA is making this final rule effective upon publication. Under the Administrative Procedures Act, 5 U.S.C. 553(d)(3), agencies must generally

publish a rule not less than 30 days prior to the effective date of the rule except as otherwise provided for by the Agency for good cause found and published with the rule. The purpose of the 30-day waiting period is to give affected parties a reasonable time to adjust their behavior before the final rule takes effect. See *Omnipoint Corp. v. F.C.C.*, 78 F.3d 620, 630-631 (D.C. Cir. 1996); *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1485 (9th Cir. 1992).

In this instance, EPA finds good cause to make the final rule effective upon publication. In order to find good cause, an Agency needs to find that the 30-day period would be: (1) Impracticable, (2) unnecessary, or (3) contrary to the public interest. Here EPA is relying on the third reason to support its finding of good cause.

EPA finds that, in this instance, waiting 30 days to make the rule effective is contrary to public interest. As explained in this preamble, both the California Toxics Rule copper and nickel criteria and California's copper and nickel site-specific objectives, approved by EPA on January 21, 2003, apply to the south San Francisco Bay. Therefore, it may be unclear which standards are the appropriate benchmarks when making permitting and CWA section 303(d) impaired waters listing decisions. Since a 30-day delay in effectiveness of this rule would unnecessarily extend this potential confusion when making water management decisions, EPA has determined that it would be in the public interest to make this rule effective immediately.

Potentially Regulated Entities

No one is regulated by this final rule. This final rule merely withdraws Federal copper and nickel aquatic life water quality criteria applicable to south San Francisco Bay, California.

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

1. Docket. EPA has established an official public docket for this action under Docket ID No. OW-2003-0015. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing under, "Water Quality Standards; Withdrawal of

Federal Aquatic Life Water Quality Criteria for Copper and Nickel Applicable to South San Francisco Bay, California," at U.S. EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, California 94105, phone: 415-972-3480. This Docket Facility is open from 8:30 a.m. Pacific time to 4:30 p.m. Pacific time, Monday through Friday, excluding legal holidays. A reasonable fee maybe charged for copies.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

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 California docket facility identified earlier. Once in the system, select "search," then key in the appropriate docket identification number.

Background

On May 18, 2000, EPA promulgated a final rule known as the "California Toxics Rule" or "CTR" to establish numeric water quality criteria for priority toxic pollutants for the State of California, since the State had not complied fully with section 303(c)(2)(B) of the Clean Water Act (CWA) (65 FR 31682). The criteria, codified at 40 CFR 131.38, became the applicable water quality criteria in California effective May 18, 2000, for all purposes and programs under the CWA.

EPA acknowledged in the preamble to the CTR that the State of California was working to satisfy the requirements of CWA section 303(c)(2)(B) and anticipated that the Agency, once the State submitted its water quality standards to EPA, would approve the State-adopted water quality criteria for pollutants included in the CTR (65 FR 31684, May 18, 2000). The State of California calls these criteria site-specific water quality objectives or site-specific objectives. The water quality standards program was developed with an emphasis on State primacy. Although in the CTR EPA promulgated toxic criteria for the State of California, EPA prefers that States maintain primacy, revise their own standards, and achieve