

Section 122.21(m)(4) and Part 125, Subpart C—Variances For Innovative Technology. EPA is deleting Part 125, Subpart C, which comprises regulations promulgated under section 301(k) of the 1977 amendments to the Clean Water Act. Section 301(k) allowed EPA to grant compliance extensions to any industrial facility subject to a NPDES permit if the facility installed innovative technology. The last date to which compliance could be extended under section 301(k) was March 31, 1991. The regulations were challenged in court (*NRDC v. EPA*, No. 84-1500 (D.C. Cir.)). In light of the expiration of the statutory extension period, the court dismissed the case and ordered EPA to vacate the regulations. (See court order dated June 2, 1994.) Section 122.21(m)(4), which is also being removed, is a corresponding provision setting the time for applications to be submitted for section 301(k) variances.

Section 122.46(d)—Duration of Permits. The citation in section 122.46(d) to July 1, 1984 as a statutory compliance deadline is no longer accurate, having been revised by the 1987 Water Quality Act. This date is being deleted from section 122.46(d), since no reference to a specific date is necessary in that provision.

Sections 122.62(a)(14), 122.62(a)(17), and 122.63(f)—Causes for Permit Modification. Section 122.62(a)(14) lists as a cause for permit modification the need to conform to changes to sections 122.41(c) and (d) that EPA made pursuant to a judicial settlement agreement dated November 16, 1981 in connection with *NRDC v. EPA*, No. 80-1607. Section 122.62(a)(17) lists as a cause for permit modification the need to conform to certain other regulatory changes that EPA made in connection with that settlement agreement. Section 122.62(a)(17) also sets a deadline of January 24, 1985 for the permittee to apply for the modification. Also, section 122.63(f) allows minor permit modifications to be made without the formal Part 124 proceedings in order to conform the permit to certain regulatory changes that were issued on September 26, 1984.

In each of these three cases, over five years have passed since the relevant regulatory changes that would be the basis for a permit modification. Thus, all permits that would have needed a modification to incorporate these regulatory changes have expired, and all newer permits are already subject to these revised regulatory conditions and so need no modification. (Although some of those expired permits may not have been reissued but may currently be under administrative extension, EPA

does not modify such permits; see sections 122.6 and 122.46(b)). Moreover, the deadline in section 122.62(a)(17) in particular to apply for permit modifications under that provision expired in 1985. Accordingly, these three provisions are obsolete and are deleted today.

Sections 123.43(b) and 124.58—Copies of Draft Permits. Section 123.43(b) is a requirement for State agencies that administer NPDES permit programs to transmit a second copy of draft general or proposed permits to personnel at EPA Headquarters (under section 123.43(a)(2), the State must provide the first copy to the Regional Administrator). Similarly, in the case of certain EPA-issued general permits, section 124.58 directs the Regional Administrators to send copies of the draft general permits to the Deputy Assistant Administrator for Water Enforcement at EPA Headquarters and gives that official an opportunity to object to the draft permits. The EPA Regional Office has primary responsibility in both of these cases. EPA believes that both of these requirements to notify the relevant Headquarters office in every case of a draft or proposed permit are unnecessary. (In addition, because of reorganization, the two Headquarters positions referred to in these provisions no longer exist in any event.) Therefore, EPA is removing these regulatory requirements (although the Region should consult with Headquarters on draft permits on an as needed basis). These provisions relate only to EPA's internal operating procedures, and therefore they are removed today without notice and comment pursuant to section 553(b)(3)(A) of the Administrative Procedure Act.

Section 140.3(h)—Marine Sanitation Devices. This section is no longer necessary, since it was designed to clarify which of the dates described in the rule between 1975 and 1980 were the "effective dates" for purposes of CWA section 312(g)(1). Since all dates described in the rule have passed, there can be no ambiguity as to whether the rule is effective for purposes of section 312(g)(1).

40 CFR Part 403—Pretreatment Regulations.

Section 403.1(c) (deadlines for submission of category determination requests and reports). This provision extended certain deadlines for the submission of requests by industrial users (requests to determine whether they were covered under various pretreatment standards, variance requests, and applications for net/gross adjustments) and for certain baseline

reporting requirements on the part of industrial users. The deadlines and these extensions have long since lapsed, and so this provision is being deleted.

Section 403.5(f) (deadlines for compliance with national pretreatment standards). This provision is obsolete because the compliance deadlines it sets have long since lapsed.

Section 403.8(c), (d), & (f)(1)(vi)(A) (POTW pretreatment requirements). The last sentence of § 403.8(f)(1)(vi)(A) set deadlines for POTWs to submit requests for approvals of modified pretreatment programs. Because these deadlines have lapsed, this sentence is obsolete and is removed today. In addition, in § 403.8(c), EPA is removing an obsolete cross reference to pretreatment program requirements in § 403.10(d) (also being deleted today) for permits issued to POTWs in States not authorized to act as the approval authority. Finally, § 403.8(d), which authorizes compliance schedules in permits to allow time for POTWs to develop pretreatment programs once determined necessary, is obsolete by its terms, and so is removed and reserved. EPA intends to invite comment on appropriate compliance schedules in a future rulemaking.

Section 403.10(b), (c) and (d) (deadlines for modifications). Section 403.10(b) is obsolete because it allowed for an extension of time for States to modify their NPDES programs consistent with the 1977 amendments to the Clean Water Act. The 1977 amendments to the Clean Water Act required modification of any previously approved State NPDES program within one year (or two years if legal authority needed to be enacted) to include a State pretreatment program. The extension has lapsed. Section 403.10(d) provided for POTW permit modification after approval of State program modifications for pretreatment. Any permits that would be affected by section 403.10(d) have long since been issued and expired, thus, modification is unnecessary. Section 403.10(c) previously provided that failure of a State to seek approval of a State Pretreatment Program as provided in 403.10(b) and the failure of an approved State to administer its State Pretreatment Program in accordance with requirements of section 403.10 constituted grounds for withdrawal of NPDES program approval under Clean Water Act section 402(c)(3). Section 403.10(c) is also revised in today's rule simply by deleting the reference to obsolete § 403.10(b) and retaining the provision that failure to comply with the 1977 CWA NPDES program modification obligation is a ground for