

SUMMARY: EPA is re-opening the comment period of a proposed rule that the Agency published on September 15, 2008. The proposed rule solicited public comment on the Agency's proposal to remove from the Code of Federal Regulations a rule that EPA promulgated in 1996 making provisions of the federal antidegradation policy directly applicable for all waters of the United States within the Commonwealth of Pennsylvania. EPA is re-opening the comment period for the proposed rule to ensure all parties have adequate opportunity to express their views to the Agency prior to taking final action on the proposed rule. The original comment period for the proposed rule closed on October 15, 2008. In a separate action published in today's final rule section of the **Federal Register**, EPA is withdrawing a direct final rule that EPA also published on September 15, 2008, removing the federal regulation that made provisions of EPA's antidegradation policy directly applicable to waters in Pennsylvania.

DATES: The comment period for the proposed rule published at 73 FR 53178, on September 15, 2008 is now re-opened and will close on December 15, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OW-2007-0093. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed on the Web site, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the OW docket Center. This docket Facility is open from 8:30 a.m. until 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566-2426, and the Docket address is OW Docket, EPA West, Room 3334, and 1301 Constitution Avenue, NW., Washington, DC 20004. The 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.

FOR FURTHER INFORMATION CONTACT: Caroline Whitehead at U.S. EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave, NW., Washington, DC 20460 (telephone: 202-566-2907, fax: 202-566-0409 or e-mail: whitehead.caroline@epa.gov) or Denise

Hakowski at U.S. EPA Region 3, (3WP30) 1650 Arch Street, Philadelphia, Pennsylvania 19103 (telephone: 215-814-5726, fax: 215-814-2318 or e-mail: hakowski.denise@epa.gov).

SUPPLEMENTARY INFORMATION:

I. Potentially Affected Entities

Citizens concerned with water quality in Pennsylvania may be interested in this rulemaking. Entities discharging pollutants to the surface waters of Pennsylvania could be indirectly affected by this rulemaking since water quality standards are used in determining National Pollutant Discharge Elimination System (NPDES) permit limits.

Categories and entities which may ultimately be affected include:

| Category | Examples of potentially affected entities |
|----------------|--|
| Industry | Industries discharging pollutants to surface waters in Pennsylvania. |
| Municipalities | Publicly-owned treatment works discharging pollutants to surface waters in Pennsylvania. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding NPDES-regulated entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action.

II. Today's Action

As EPA explained in its September 15, 2008 notices (73 FR 53140 and 73 FR 53178), EPA proposed to remove the federal regulation that made provisions of the federal antidegradation policy directly applicable in Pennsylvania. EPA proposed to remove the federal rule because Pennsylvania now has an EPA-approved antidegradation policy meeting the federal requirements at 40 CFR 131.12. Therefore, the federal antidegradation regulation promulgated by EPA for Pennsylvania is no longer needed. On September 15, EPA published a direct final rule to remove the federal regulation at 40 CFR 131.32. EPA has determined that additional opportunity for public comment would be beneficial. Therefore, EPA is re-opening the comment period of the proposed rule (73 FR 53178; September 15, 2008) to ensure all parties have adequate opportunity to express their views to the Agency prior to EPA taking final action regarding removal of the federal regulation at 40 CFR 131.32. In a separate action today, EPA is withdrawing the direct final rule (73 FR 53140; September 15, 2008).

List of Subjects in 40 CFR Part 131

Environmental protection, Antidegradation, Water quality standards.

Dated: November 6, 2008.

Stephen L. Johnson,
Administrator.

[FR Doc. E8-27209 Filed 11-13-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 143

[EPA-HQ-OW-2008-0644; FRL-8740-5]

RIN 2040-AF00

National Primary Drinking Water Regulations: Minor Correction to Stage 2 Disinfectants and Disinfection Byproducts Rule and Changes in References to Analytical Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to make a minor correction to the Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR) and make minor, unrelated, changes in references to expedited, alternative methods and other analytical methods in the regulations. EPA promulgated the Stage 2 Disinfectants and Disinfection Byproducts Rule on January 4, 2006. A requirement for ground water systems serving 500-9,999 people was unintentionally excluded from the final rule. As a result, the rule allowed for less routine compliance monitoring than intended for this category of Public Water Systems (PWSs). These PWSs should have been required to monitor for both total trihalomethanes (TTHM) and haloacetic acids (HAA5) concentrations at two locations. Due to the error, they were only required to monitor for either TTHM or HAA5 at two locations. EPA is also proposing to make minor, unrelated changes in the CFR by adding references to the list of methods approved under the Expedited Approval Process, removing references to outdated methods, and specifying a new source for the publication titled *Technical Notes on Drinking Water Methods*.

DATES: Comments must be received on or before January 13, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OW-2008-0644, by one of the following methods:

• *www.regulations.gov*: Follow the on-line instructions for submitting comments.

• *Mail*: Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

• *Hand Delivery*: EPA Docket Center, Public Reading Room, EPA Headquarters, West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OW-2008-0644. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you

include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to Unit I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The 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 FURTHER INFORMATION CONTACT: For information concerning the Stage 2 DBPR minor correction contact Thomas Grubbs, Standards and Risk

Management Division, Office of Ground Water and Drinking Water, M/C 4607M, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number (202) 564-5262; e-mail address *grubbs.thomas@epa.gov*. For information concerning the methods reference update in the CFR contact Patricia Fair, Standards and Risk Management Division, Technical Support Center, Office of Ground Water and Drinking Water, M/C 140, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number (513) 569-7937; e-mail address *fair.pat@epa.gov*. For general information, contact the Safe Drinking Water Hotline, telephone number: (800) 426-4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding legal holidays, from 10 a.m. to 4 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially regulated by this regulation are public water systems (PWSs). A public water system, as defined by section 1401 of the Safe Drinking Water Act (SDWA), is "a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals." EPA defines "regularly served" as receiving water from the system 60 or more days per year. Categories and entities potentially regulated by this action include the following:

| Category | Examples of potentially regulated entities |
|--|--|
| State, Tribal and Local Government | State, Tribal or local government-owned/operated water supply systems using ground water, surface water or mixed ground water and surface water. |
| Federal Government | Federally owned/operated community water supply systems using ground water, surface water or mixed ground water and surface water. |
| Industry | Privately owned/operated community water supply systems using ground water, surface water or mixed ground water and surface water. |

This table is not intended to be an exhaustive list, 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 the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the definition of "public water system" in § 141.2, the section entitled "Coverage"

(§ 141.3), and the sections entitled "General requirements" (§§ 141.600 and 141.620) in Title 40 of the *Code of Federal Regulations* and applicable criteria in §§ 141.605, and 141.621 of today's proposal. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Comments Will Be Considered?

The public is invited to submit comments on the proposed changes to the regulations discussed in this notice, namely, the minor correction to the Stage 2 DBPR, the addition of cross references (to expedited methods) to Appendix A to subpart C of part 141 in the CFR, and the specific deletion of references to outdated methods in the CFR. EPA does not solicit and will not respond in this rulemaking to any comments on any other issues. In

particular, comments will not be responded to regarding the Stage 2 DBPR itself, the expedited method approval process, specific methods approved in the expedited process, or the outdated methods or any specific regulations regarding the outdated methods.

C. Proposed Minor Correction to the Stage 2 Disinfection and Disinfectant Byproduct Rule (DBPR)

Today's proposal corrects the monitoring frequency for one category of public water systems (community water systems (CWSs) and nontransient noncommunity (NTNCWSs) serving 500–9,999 people) to correct an error introduced when the tables were modified prior to publication of the final rule. EPA had modified the tables (in 40 CFR 141.605 and 141.621) in order to move all footnotes into the column headers and out of the individual cells. In combining and rewriting the footnote, EPA inadvertently modified the monitoring requirements for ground water systems serving 500–9,999 people. As discussed in the preamble to the final rule (page 429, USEPA 2006), "EPA also believes that more samples are necessary to characterize larger systems (as defined by population) than for smaller systems." EPA intended for those systems to monitor at a frequency that was twice the frequency required for ground water systems serving fewer than 500 people, taking two dual sample sets (each consisting of TTHM and HAA5 samples) rather than single TTHM and HAA5 samples. However, the footnotes to the monitoring tables in the preamble as well as the regulatory language are incorrect as they do not reflect EPA's intended monitoring requirement for these ground water systems (page 427, USEPA 2006). EPA is proposing to correct the regulatory footnotes. The monitoring for these small systems is not required to begin until the year 2012 or 2013 (page 415, USEPA 2006).

In the Stage 2 DBPR Economic Analysis (USEPA, 2005a) and in the Information Correction Rule Supporting Statement (Page 52, USEPA 2005b), EPA based the estimate of burden for these systems using the intended monitoring frequency. Population-based monitoring is discussed at length in the final Stage 2 DBPR (page 429, USEPA, 2006a) and the additional costs for monitoring by ground water systems serving 500–9,999 people are included (page 456, USEPA, 2006a). EPA is not developing a new economic analysis for this proposal because the existing economic analysis

accounts for all costs associated with this proposal.

D. Changes Related to Analytical Methods

1. Cross-References to Appendix A to Subpart C of Part 141

When EPA determines that an alternative analytical method is "equally effective" (i.e., as effective as a method that has already been promulgated in the regulations), the Safe Drinking Water Act (SDWA) allows EPA to approve the use of the alternative method through publication in the **Federal Register**. Section 1401(1) of SDWA states that the newly approved methods "shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation." EPA approved the first set of alternative methods using this authority in a **Federal Register** action published on June 3, 2008 (73 FR 31616) (USEPA 2008). As part of that action, EPA added an appendix (Appendix A) to the regulations at 40 CFR Part 141, which lists the newly approved methods.

The current Part 141 drinking water regulations do not indicate that additional approved methods are available and are listed in an appendix. Therefore, EPA is proposing to amend the regulations at each section that lists approved analytical methods to add cross references to Appendix A to subpart C of part 141. This will make public water systems, laboratories, and States more aware of the alternative methods. References to the appendix are proposed to be added at the following places:

- Section 141.21(f)(3) and (f)(6)
- Section 141.23(k)(1)
- Section 141.24(e)
- Section 141.25(a)
- Section 141.74(a)(1) and (a)(2)
- Section 141.131(b)(1), (c)(1), and (d)
- Section 141.402(c)(2)
- Section 141.704(a) and (b)
- Section 143.4(b)

2. Removal of Methods That Are No Longer Approved

When the arsenic maximum contaminant level (MCL) was revised to 0.010 mg/L, some of the analytical methods that were previously approved for analyzing samples for arsenic were no longer sensitive enough to determine compliance. EPA added footnote 15 to the table at 40 CFR 141.23(k)(1) to indicate that use of these methods would not be allowed after January 23, 2006. EPA is now proposing to update the listing of approved arsenic methods to remove methods that are no longer

allowed (EPA 200.7, SM 3120 B and SM 3120 B–99). EPA is also proposing to revise footnotes 13 and 14 to the table to paragraph (k)(1) to remove references to methods that are no longer approved to determine arsenic. EPA also proposes that Footnote 15 be removed and the number reserved for future use.

Paragraph (e)(2) of 40 CFR 141.24 lists methods that were approved for use until June 1, 2001. Since these methods are no longer approved, EPA proposes to remove the paragraph. EPA is also proposing to remove footnote 1 to the table at 40 CFR 141.24(e)(1) because it refers to 40 CFR 141.24(e)(2). Footnote 1 would be reserved for future use. The header to the table would be revised to remove the reference to footnote 1.

3. Source for Obtaining Copies of *Technical Notes on Drinking Water Methods*, EPA–600/R–94–173, October 1994

This document is now available at no cost from the National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242–0419 or <http://www.epa.gov/nscep/>. EPA is proposing to update the following regulations to reflect this new information:

- Section 141.23(k)(1)
- Section 141.74(a)(1)
- Section 143.4(b)

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction

This action does not impose any new information collection burden. In this action, EPA is proposing to make a minor correction to the Stage 2 DBPR, add references in the *Code of Federal Regulations* (CFR) to the list of methods approved under the Expedited Approval Process, remove references to outdated methods in the CFR and specify a new source for the publication titled *Technical Notes on Drinking Water Methods*. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the Stage 2 DBPR existing regulations at 40 CFR 141 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number (number 2040–0265). The OMB control numbers for EPA's

regulations in 40 CFR are listed in 40 CFR part 9. There is no burden associated with regard to the minor, editorial changes in references to analytical methods in the CFR. This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. Small entities are defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any "not-for-profit enterprise which is independently owned and operated and is not dominant in its field." However, the RFA also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities of the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's rule on small entities, EPA considered small entities to be public water systems (PWS) serving 10,000 or fewer persons. As required by the RFA, EPA proposed using this alternative definition in the **Federal Register** (63 FR 7620, February 13, 1998), requested public comment, consulted with the Small Business Administration (SBA), and finalized the alternative definition in the Consumer Confidence Reports regulation (63 FR 44511, August 19, 1998). As stated in that Final Rule, the alternative definition would be applied to this regulation as well.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic

impact on a substantial number of small entities. This proposed correction does not impose any new costs or burdens on PWSs. The ground water system monitoring costs were accounted for and detailed in the Stage 2 DBPR Economic Analysis and summarized in the preamble of the Stage 2 DBPR (USEPA, 2006a). A copy of Stage 2 DBPR and the final rule's Economic Analysis can be found in the Docket for this proposed rule.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. This rule proposes a minor correction to the Stage 2 DBPR and minor, editorial changes in references to analytical methods in the *Code of Federal Regulations*. Therefore, this proposed rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As previously stated, this rule proposes a minor correction to the Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR) and minor, editorial changes in references to analytical methods in the *Code of Federal Regulations*; actions that will not significantly or uniquely affect small governments.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule proposes a minor correction to the Stage 2 DBPR and minor, editorial changes in references to analytical methods in the *Code of Federal Regulations*. The Stage 2 DBPR (USEPA 2006) states that the final rule will not have federalism implications and, with regard to the minor, editorial changes to references of analytical methods in the *Code of Federal Regulations*, those changes when finalized will not impose substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule proposes a minor correction to the Stage 2 DBPR and minor, editorial changes in references to analytical methods in the *Code of Federal Regulations*, actions that will not have tribal implications. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 18355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not propose technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule proposes a minor correction to the Stage 2 DBPR and minor, editorial changes in references to analytical methods in the *Code of Federal Regulations*. These

proposed actions will not have a disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

References

- USEPA. 2005a. Economic Analysis for the Final Stage 2 Disinfectants and Disinfection Byproducts Rule. Washington, DC. EPA 815-R-05-010.
- USEPA. 2005b. Information Collection Request for National Primary Drinking Water Regulations: Final Stage 2 Disinfectants and Disinfection Byproducts Rule. Washington, DC. EPA 815-Z-05-002.
- USEPA. 2006. National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule. Washington, DC. EPA 815-Z-06-002. 71 FR 4644. January 4, 2006.
- USEPA. 2008. Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures. 73 FR 17902. June 3, 2008.

List of Subjects

40 CFR Part 141

Environmental protection, Chemicals, Indians—lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 143

Chemicals, Indians—lands, Water-supply.

Dated: November 6, 2008.

Stephen L. Johnson,
Administrator.

For the reasons set forth in the preamble, Title 40 chapter I of the *Code of Federal Regulations* is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

2. Section 141.21 is amended by revising the introductory text preceding

the table in paragraph (f)(3) and paragraph (f)(6) to read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) Public water systems must conduct total coliform analyses in accordance with one of the analytical methods in the following table or one of the alternative methods listed in Appendix A to subpart C of this part.

* * * * *

(6) Public water systems must conduct analysis of *Escherichia coli* in accordance with one of the following analytical methods or one of the alternative methods listed in Appendix A to subpart C of this part.

* * * * *

3. Section 141.23 is amended as follows by:

a. Revising the text preceding the table in paragraph (k)(1);

b. Revising entry 3 in the table to paragraph (k)(1);

c. Revising footnotes 13 and 14 to the table to paragraph (k)(1); and

d. Removing and reserving footnote 15 to the table to paragraph (k)(1).

§ 141.23 Inorganic chemical sampling and analytical requirements.

(k) * * *

(1) Analysis for the following contaminants shall be conducted in accordance with the methods in the following table, or the alternative methods listed in Appendix A to subpart C of part 141, or their equivalent as determined by EPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, calcium, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical test procedures are contained in *Technical Notes on Drinking Water Methods*, EPA-600/R-94-173, October 1994. This document is available from the National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419 or <http://www.epa.gov/nscep/>.

| Contaminant | Methodology ¹³ | EPA | ASTM ³ | SM ⁴ (18th, 19th ed.) | SM ⁴ (20th ed.) | SM Online ²² | Other |
|--------------------------------|----------------------------------|--------------------|--------------------|--|-------------------------------|-------------------------|-------|
| * * * | * * * | * * * | * * * | * * * | * * * | * * * | |
| 3. Arsenic ¹⁴ | ICP-Mass Spectrometry | ² 200.8 | | | | | |
| | Atomic Absorption; Platform | ² 200.9 | | | | | |
| | Atomic Absorption; Furnace | | D2972-97, 03 C. | 3113 B | 3113 B-99. | | |
| | Hydride Atomic Absorption | | D1972-97, 03 B. | 3114 B | 3114 B-97. | | |

| Contaminant | Methodology ¹³ | EPA | ASTM ³ | SM ⁴ (18th, 19th ed.) | SM ⁴ (20th ed.) | SM Online ²² | Other |
|-------------|---------------------------|-----|-------------------|--|-------------------------------|-------------------------|-------|
| * | * | * | * | * | * | * | * |
| * | * | * | * | * | * | * | * |

²“Methods for the Determination of Metals in Environmental Samples—Supplement I,” EPA/600/R-94/111, May 1994. Available at NTIS, PB95-125472.

³Annual Book of ASTM Standards, 1994, 1996, 1999, or 2003, Vols. 11.01 and 11.02, ASTM International; any year containing the cited version of the method may be used. The previous version of D1688-95A, D1688-95C (copper), D3559-95D (lead), D1293-95 (pH), D1125-91A (conductivity) and D859-94 (silica) are also approved. These previous versions D1688-90A, C; D3559-90D, D1293-84, D1125-91A and D859-88, respectively are located in the Annual Book of ASTM Standards, 1994, Vol. 11.01. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

⁴Standard Methods for the Examination of Water and Wastewater, 18th edition (1992), 19th edition (1995), or 20th edition (1998). American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005. The cited methods published in any of these three editions may be used, except that the versions of 3111 B, 3111 D, 3113 B and 3114 B in the 20th edition may not be used.

¹³Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2xpreconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (*i.e.*, no sample digestion) will be higher. For direct analysis of cadmium by Method 200.7, sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559-90D, unless multiple in-furnace depositions are made.

¹⁴If ultrasonic nebulization is used in the determination of arsenic by Method 200.8, the arsenic must be in the pentavalent state to provide uniform signal response. For direct analysis of arsenic with Method 200.8 using ultrasonic nebulization, samples and standards must contain 1 mg/L of sodium hypochlorite.

¹⁵[Reserved].

²²Standard Methods Online are available at <http://www.standardmethods.org>. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

* * * * *

4. Section 141.24 is amended by:

a. Revising paragraph (e) introductory text;

b. Removing and reserving footnote 1 to the table to paragraph (e)(1); and

c. Removing and reserving paragraph (e)(2).

§ 141.24 Organic chemicals, sampling and analytical requirements.

* * * * *

(e) Analyses for the contaminants in this section shall be conducted using

the methods listed in the following table, or the alternative methods listed in Appendix A to subpart C of this part, or their equivalent as determined by EPA.

(1) * * *

| Contaminant | EPA method | Standard methods | ASTM | Other |
|-------------|------------|------------------|------|-------|
| * | * | * | * | * |

¹[Reserved].

* * * * *

5. Section 141.25 is amended by revising the introductory text preceding the table to read as follows:

§ 141.25 Analytical methods for radioactivity.

(a) Analysis for the following contaminants shall be conducted to determine compliance with § 141.66 (radioactivity) in accordance with the methods in the following table, or the alternative methods listed in Appendix A to subpart C this part, or their equivalent determined by EPA in accordance with § 141.27.

* * * * *

§ 141.74 [Amended]

6. Section 141.74 is amended by revising the introductory text preceding the tables in paragraphs (a)(1) and (a)(2) to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(1) Public water systems must conduct analysis of pH and temperature in accordance with one of the methods listed at § 141.23(k)(1). Public water systems must conduct analysis of total coliforms, fecal coliforms, heterotrophic bacteria, and turbidity in accordance with one of the following analytical methods or one of the alternative methods listed in Appendix A to subpart C of this part and by using

analytical test procedures contained in *Technical Notes on Drinking Water Methods*, EPA-600/R-94-173, October 1994. This document is available from the National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419 or <http://www.epa.gov/nscep/>.

* * * * *

(2) Public water systems must measure residual disinfectant concentrations with one of the analytical methods in the following table or one of the alternative methods listed in Appendix A to subpart C of this part. If approved by the State, residual disinfectant concentrations for free chlorine and combined chlorine also may be measured by using DPD colorimetric test kits. In addition States

may approve the use of the ITS free chlorine test strip for the determination of free chlorine. Use of the test strips is described in Method D99-003, "Free Chlorine Species (HOCl⁻ and OCl⁻) by Test Strip," Revision 3.0, November 21, 2003, available from Industrial Test Systems, Inc., 1875 Langston St., Rock Hill, SC 29730. Free and total chlorine residuals may be measured continuously by adapting a specified chlorine residual method for use with a continuous monitoring instrument provided the chemistry, accuracy, and precision remain the same. Instruments used for continuous monitoring must be calibrated with a grab sample measurement at least every five days, or with a protocol approved by the State.

* * * * *

7. Section 141.131 is amended by revising the introductory text preceding the tables in paragraphs (b)(1), (c)(1), and paragraph (d) introductory text to read as follows:

§ 141.131 Analytical requirements.

(a) * * *

(b) Disinfection byproducts. (1) Systems must measure disinfection byproducts by the methods (as modified by the footnotes) listed in the following table or one of the alternative methods listed in Appendix A to subpart C of this part:

* * * * *

(c) Disinfectant residuals. (1) Systems must measure residual disinfectant concentration for free chlorine, combined chlorine (chloramines), and chlorine dioxide by the methods listed in the following table or one of the alternative methods listed in Appendix A to subpart C of this part:

* * * * *

(d) Additional analytical methods. Systems required to analyze parameters not included in paragraphs (b) and (c) of this section must use the following methods or one of the alternative methods listed in Appendix A to subpart C of this part. A party approved by EPA or the State must measure these parameters.

* * * * *

8. Section 141.402 is amended by revising paragraph (c)(2) introductory text preceding the table to read as follows:

§ 141.402 Ground water source microbial monitoring and analytical methods.

* * * * *

(c) * * *

(2) A ground water system must analyze all ground water source samples collected under paragraph (a) of this section using one of the analytical

methods listed in the following table in paragraph (c)(2) of this section or one of the alternative methods listed in Appendix A to subpart C of this part for the presence of *E. coli*, enterococci, or coliphage:

* * * * *

9. Section 141.605 is amended by revising footnote 2 to the table in paragraph (b) to read as follows:

§ 141.605 Subpart V compliance monitoring location recommendations.

* * * * *

(b) * * *

² Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for subpart H systems serving 500–3,300. Ground water systems serving 500–9,999 on annual monitoring must take dual sample sets at each monitoring location. All other systems on annual monitoring and subpart H systems serving 500–3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the locations with the highest TTHM and HAA5 concentrations, respectively. For systems serving fewer than 500 people, only one location with a dual sample set per monitoring period is needed if the highest TTHM and HAA5 concentrations occur at the same location, and month.

* * * * *

10. Section 141.621 is amended by revising footnote 2. to the table in paragraph (a)(2) to read as follows:

§ 141.621 Routine monitoring.

(a) * * *

(2) * * *

² Systems on quarterly monitoring must take dual sample sets every 90 days at each monitoring location, except for subpart H systems serving 500–3,300. Ground water systems serving 500–9,999 on annual monitoring must take dual sample sets at each monitoring location. All other systems on annual monitoring and subpart H systems serving 500–3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the locations with the highest TTHM and HAA5 concentrations, respectively. For systems serving fewer than 500 people, only one location with a dual sample set per monitoring period is needed if the highest TTHM and HAA5 concentrations occur at the same location, and month.

* * * * *

11. Section 141.704 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 141.704 Analytic methods.

(a) *Cryptosporidium*. Systems must analyze for *Cryptosporidium* using *Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA*, 2005, United States Environmental Protection Agency, EPA-815-R-05-002 or *Method 1622: Cryptosporidium in Water by Filtration/IMS/FA*, 2005, United States Environmental Protection Agency, EPA-815-R-05-001, which are incorporated by reference, or alternative methods listed in Appendix A to Subpart C of this part. The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of these methods online from <http://www.epa.gov/safewater/disinfection/lt2> or from the United States Environmental Protection Agency, Office of Ground Water and Drinking Water, 1201 Constitution Ave., NW., Washington, DC 20460 (Telephone: 800-426-4791). You may inspect a copy at the Water Docket in the EPA Docket Center, 1301 Constitution Ave., NW., Washington, DC, (Telephone: 202-566-2426) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

* * * * *

(b) *E. coli*. System must use methods for enumeration of *E. coli* in source water approved in § 136.3(a) of this chapter or alternative methods listed in Appendix A to subpart C of this part.

* * * * *

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

12. The authority citation for part 143 continues to read as follows:

Authority: U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

13. Section 143.4 is amended by revising the text preceding the table in paragraph (b) to read as follows:

§ 143.4 Monitoring.

* * * * *

(b) Measurement of pH, copper and fluoride to determine compliance under § 143.3 may be conducted with one of the methods in § 141.23(k)(1). Analyses of aluminum, chloride, foaming agents, iron, manganese, odor, silver, sulfate, total dissolved solids (TDS) and zinc to determine compliance under § 143.3 may be conducted with the methods in

the following table or alternative methods listed in Appendix A to subpart C of this part. Criteria for analyzing aluminum, copper, iron, manganese, silver and zinc samples with digestion or directly without digestion, and other analytical test procedures are contained in *Technical Notes on Drinking Water Methods*, EPA-600/R-94-173, October 1994. This document is available from the National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419 or <http://www.epa.gov/nscep/>.

* * * * *

[FR Doc. E8-26959 Filed 11-13-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-1018]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before February 12, 2009.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA-B-1018, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151, or (e-mail) bill.blanton@dhs.gov.

FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151 or (e-mail) bill.blanton@dhs.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered.

A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: