

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 9, 141, and 142**

[FRL-6575-9]

RIN 2040-AD43

Revisions to the Interim Enhanced Surface Water Treatment Rule (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR), and Revisions to State Primacy Requirements To Implement the Safe Drinking Water Act (SDWA) Amendments**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: This direct final action will make minor revisions to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR) which were published December 16, 1998 and the Revisions to State Primacy Requirements to Implement Safe Drinking Water Act (SDWA) Amendments (Primacy Rule) published April 28, 1998. This Direct Final Rule revises the compliance dates for the IESWTR and the Stage 1 DBPR by shifting them back approximately two weeks from the middle of the month to the beginning of the following month. This change will shift the monitoring periods to coincide with calendar quarters which will facilitate the implementation of both rules. This action will also extend the use of new analytical methods included in these rules to compliance monitoring for long

standing drinking water regulations for total trihalomethanes. The revisions also include several changes to the regulatory language for clarification. In addition, this document corrects typographical errors, replaces inadvertently deleted text, and clarifies some of the new regulatory provisions found in the published rules. Lastly, this document contains corrections to the Primacy Rule. These regulations relate to the requirements and procedures for States to obtain primary enforcement authority (primacy) for the Public Water System Supervision (PWSS) program under the Safe Drinking Water Act as amended by the 1996 Amendments.

DATES: This regulation is effective on June 13, 2000 without further notice unless EPA receives adverse comment by May 15, 2000. If EPA receives such comment, EPA will withdraw this direct final rule before its effective date by publishing a timely withdrawal in the **Federal Register** informing the public the rule will not take effect. For judicial review purposes, this final rule is promulgated as of 1:00 p.m. EST on April 28, 2000 as provided in 40 CFR 23.7.

ADDRESSES: Send written comments to the Comment Clerk, docket number W-99-11, Water Docket (MC 4101), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The record for this rule has been established under docket number W-99-11. The record is available for inspection 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays at the Water Docket, East Tower

Basement, US EPA, 401 M Street, SW, Washington DC. The rule making records for the original IESWTR and the Stage 1 DBPR are also available for inspection at the Water Docket. For access to docket materials, please call 202-260-3027 to schedule an appointment. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency, 401 M Street, SW, East Tower Basement, Washington, DC 20460. Comments may be submitted electronically to ow-docket@epamail.epa.gov. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: Jennifer Melch, Implementation and Assistance Division, Office of Ground Water and Drinking Water (MC-4606), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-7035. Information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426-4791. The Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. EST.

SUPPLEMENTARY INFORMATION:**Regulated Entities**

The entities regulated by the IESWTR and Stage 1 DBPR, and thus by these revisions to those rules, are public water systems. These include community and noncommunity water systems. States are subject to the primacy rule requirements as revised.

Regulated categories and entities include the following:

Category	Examples of potentially regulated entities	SIC
State, Tribal, and Territorial Governments.	States, Territories, and Tribes that analyze water samples on behalf of public water systems required to conduct such analysis; States, Territories, and Tribes that operate public water systems required to monitor under the IESWTR or Stage 1 DBPR.	9511
Industry	Private operators of public water systems required to monitor under the IESWTR or Stage 1 DBPR	9511
Municipalities	Municipal operators of public water systems required to monitor under the IESWTR or Stage 1 DBPR.	9511

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 the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in §§ 141.2, 141.70, 141.130, 141.170, 142.2, 142.3, and 142.10 of title 40 of the Code of Federal Regulations. 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 or the Regional contacts that follow.

Regional Contacts

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V. Miguel A. Del Toral, Safe Drinking Water Branch, 77 W. Jackson Blvd. (WD-15J), Chicago, IL 60604, (312) 886-5253

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- IX. Bruce MacIer, Water Supply Section, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1884
- X. Wendy Marshall, Drinking Water Unit, 1200 Sixth Avenue (OW-136), Seattle, WA 98101, (206) 553-1890

Abbreviations

- CWS: Community water system
- DBPR: Disinfectant and Disinfection Byproducts Rule
- EPA: Environmental Protection Agency
- GWUDI: Ground water under the direct influence of surface water
- HAA5: Haloacetic Acids (monochloroacetic, dichloroacetic, trichloroacetic, monobromoacetic and dibromoacetic acids)
- ICR: Information Collection Request
- IESWTR: Interim Enhanced Surface Water Treatment Rule
- MCL: Maximum contaminant level
- MCLG: Maximum contaminant level goal
- MRDL: Maximum residual disinfectant level
- MRDLG: Maximum residual disinfectant level goal
- NPDWR: National Primary Drinking Water Regulation
- NTNCWS: Non-transient, non-community water system
- OMB: Office of Management and Budget
- PWS: Public water system
- RFA: Regulatory Flexibility Analysis
- SDWA: Safe Drinking Water Act
- TNCWS: Transient, non-community water system
- TOC: Total organic carbon
- TTHM: Total Trihalomethanes (chloroform, bromodichloromethane, dibromochloromethane, and bromoform)
- UMRA: Unfunded Mandates Reform Act

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I. Background

On December 16, 1998, EPA published the final Interim Enhanced Surface Water Treatment Rule (IESWTR; 63 FR 69478) and Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR; 63 FR 69390). On April 28, 1998, EPA published the Revisions to State Primacy Requirements to Implement the SDWA Amendments (63 FR 23362).

IESWTR: The IESWTR was designed to improve control of microbial pathogens, including specifically the protozoan *Cryptosporidium*, in drinking water and to address risk trade-offs with disinfection byproducts. The IESWTR builds upon the treatment technique requirements of the Surface Water Treatment Rule. Key provisions established in the final IESWTR include: a Maximum Contaminant Level Goal (MCLG) of zero for *Cryptosporidium*; 2-log *Cryptosporidium* removal requirements for systems that filter; strengthened combined filter effluent turbidity performance standards and individual filter turbidity monitoring provisions; disinfection benchmark provisions to assure continued levels of microbial protection while facilities take the necessary steps to comply with new disinfection byproduct standards; inclusion of *Cryptosporidium* in the definition of ground water under the direct influence of surface water (GWUDI) and in the watershed control requirements for unfiltered public water systems; requirements for covers on new finished water reservoirs; and sanitary surveys for all surface water and GWUDI systems regardless of size.

The IESWTR applies to public water systems that use surface water or GWUDI and serve 10,000 or more people, except that the rule requires primacy States to conduct sanitary surveys for all surface water and GWUDI systems regardless of size.

EPA believes that implementation of the IESWTR will significantly reduce the level of *Cryptosporidium* in finished drinking water supplies through improvements in filtration and reduce the likelihood of the occurrence of cryptosporidiosis outbreaks by providing an increased margin of safety against such outbreaks for some systems. In addition, the filtration provisions of the rule are expected to

increase the level of protection from exposure to other pathogens (*i.e.*, *Giardia* or other waterborne bacterial or viral pathogens).

Stage 1 DBPR: The Stage 1 DBPR was designed to reduce the levels of disinfectants and disinfection byproducts in drinking water supplies. The DBPR established maximum residual disinfectant level goals (MRDLGs) for chlorine, chloramines, and chlorine dioxide; maximum contaminant level goals (MCLGs) for four trihalomethanes (chloroform, bromodichloromethane, dibromochloromethane, and bromoform), two haloacetic acids (dichloroacetic acid and trichloroacetic acid), bromate, and chlorite; and National Primary Drinking Water Regulations (NPDWRs) for three disinfectants (chlorine, chloramines, and chlorine dioxide), two groups of organic disinfection byproducts (total trihalomethanes (TTHM)—a sum of chloroform, bromodichloromethane, dibromochloromethane, and bromoform; and haloacetic acids (HAA5)—the sum of dichloroacetic acid, trichloroacetic acid, monochloroacetic acid and mono- and dibromoacetic acids), and two inorganic disinfection byproducts (chlorite and bromate). The NPDWRs consist of maximum residual disinfectant levels (MRDLs) for these disinfectants and maximum contaminant levels (MCLs) or treatment techniques for their byproducts. The NPDWRs also include monitoring, reporting, and public notification requirements for these compounds.

The Stage 1 DBPR applies to public water systems that are community water systems (CWSs) and nontransient noncommunity water systems (NTNCWSs) that treat their water with a chemical disinfectant for either primary or residual treatment and to CWSs and NTNCWSs that purchase water and provide water that contains a chemical disinfectant. In addition, certain requirements for chlorine dioxide apply to transient noncommunity water systems (TNCWSs).

The Stage 1 DBPR provides public health protection for households that were not previously covered by drinking water rules for disinfection byproducts. In addition, the rule, for the first time, provides public health protection from exposure to haloacetic acids, chlorite (a major chlorine dioxide byproduct) and bromate (a major ozone byproduct).

Primacy Rule: This rule codified new statutory requirements under the 1996 Amendments to the Safe Drinking Water Act (SDWA) involving changes to the

process and requirements for States to obtain or retain primary enforcement authority for the Public Water System Supervision program under § 1413 of the SDWA and to the definition of a "public water system" under § 1401 of the SDWA.

II. Today's Action

A. IESWTR and Stage 1 DBPR

This document revises the IESWTR and Stage 1 DBPR to move compliance dates to facilitate implementation, correct typographical errors identified in these rules, replace text inadvertently deleted, delete incorrect text, and clarify certain provisions in the final rules. The revisions include the following modifications:

Shifting Compliance Date of Rules: This action will revise the compliance dates of both rules by extending them approximately two weeks. This shift will facilitate the implementation of the IESWTR and the Stage 1 DBPR as the monitoring periods for both rules will coincide with calendar quarters and consequently with the monitoring periods for other contaminants.

New Analytical Methods Use: This action modifies § 141.30 to extend the use of new analytical methods included in the DBPR § 141.131(b) for compliance monitoring for long standing drinking water regulations for total trihalomethanes.

Regulated Entities Compliance with Stage 1 DBPR: Today's rule makes language clarifications in § 141.130(a) to the criteria that determines which systems must meet the new MCLs and MRDLs under the DBPR. The original language specified that systems which "add a chemical disinfectant to the water in any part of the drinking water treatment process" are subject to the rule. Today, EPA is correcting that language to also include systems that "provide water that contains a chemical disinfectant." By setting the original criteria, EPA inadvertently excluded consecutive systems, or those that purchase water, from the requirement to monitor for and meet the MCLs and MRDLs of the DBPR, although such systems were included in regulatory impact analyses and costed as part of the original rule.

TTHM and HAA5 Monitoring and Compliance Provisions: The regulatory language addressing TTHM and HAA5 monitoring and compliance determinations has been slightly revised to clarify the intention of the regulatory requirements in § 141.132(b)(1). The first clarification adds language that was inadvertently left out in the final rule. This clarification specifies the criteria

under which surface water systems serving <500 people and ground water systems serving <10,000 people on increased monitoring may return to routine monitoring. Systems on increased monitoring may return to routine monitoring if their TTHM annual average is 0.040 mg/L or less and their HAA5 annual average is 0.030mg/L or less. These values are the same criteria that systems on routine quarterly monitoring must meet in order to be eligible for reduced monitoring. This change is also reflected in the table in § 141.132(b)(1) where the reference to "paragraph c" in the third and fifth entries is replaced by "paragraph (b)(1)(iv)."

The second revision clarifies the requirements for ground water systems serving <10,000 people that after annual sampling show that they have met the requirements for reduced monitoring (one sample per plant every 3 years). In the situation where that sample collected during reduced monitoring exceeds the MCL, there is a concern that the existing language is ambiguous and could be interpreted to require such a system to return to routine monitoring (one sample per plant per year) before being triggered to quarterly monitoring. EPA's intention was to assure that these systems would perform quarterly monitoring immediately following a result that exceeds the MCL. Therefore, EPA has clarified the language to specify the intent of the requirement which is to have such systems immediately triggered to quarterly monitoring, which is consistent with the requirements for the other system categories.

The final clarification for § 141.133(b)(1) is on compliance determination for TTHM and HAA5. The intention of the requirement was that systems monitoring less frequently than quarterly, and that measure TTHM or HAA5 above the MCL, would not be in violation of the MCL until they conduct four consecutive quarters of monitoring under the increased monitoring requirements. (The exceptions to this are when the results of fewer than four quarters will cause the running annual average to exceed the MCL, or if the system fails to collect the four samples over four consecutive quarters, in which case the MCL is calculated based on available data for that monitoring period). This intent is clarified by deleting the last two sentences of § 141.133(b)(1)(i), revising paragraphs (b)(1)(ii) and (iii), and adding new paragraph (b)(1)(iv).

Chlorite Provisions: Today's rule also revises two provisions addressing chlorite. First, EPA is correcting the

general requirements for transient non-community water systems (TNCWS) in § 141.130 which incorrectly states that TNCWS must comply with chlorite requirements. This correction is accomplished by deletion of the chlorite reference in that section. Second, EPA is clarifying the monitoring provisions in § 141.131(b) for daily chlorite samples which require the analysis to be performed by a certified lab. Because systems are capable of analyzing by amperometric titration the daily chlorite samples taken at the entrance to the distribution system, language has been added to allow public water systems to be approved for such monitoring to reduce the financial and operational burden on the systems.

Disinfection Byproduct Precursors Provisions: This rule also clarifies the public notification requirements related to compliance with DBP precursors under § 141.133 and provides revised language regarding the Step 2 TOC removal requirements under § 141.135 in order to eliminate ambiguous text. This revision clarifies that the submitted bench or pilot-scale tests must be used to determine the alternate enhanced coagulation level. In the table in § 141.135(b)(2), minor revisions correct "<60-120" to read ">60-120" in the heading of the second column and add percentage signs—%—to all values while deleting the word "percent" from the three column headings.

System Reporting and Recordkeeping: This revision adds system reporting requirements which were inadvertently omitted from § 141.175 of the IESWTR. Today's rule requires that when a direct or conventional filtration system exceeds the maximum turbidity limit of 1 NTU, the system must inform the State no later than the end of the next business day. Similarly, when a system using alternative filtration technologies exceeds the maximum turbidity level set by the State, the system must inform the State no later than the end of the next business day.

Today's rule also adds clarifying text to the § 141.134 reporting tables. These changes will facilitate a system's reporting requirements for the disinfectant byproducts, disinfectants, and disinfectant byproduct precursors and enhanced coagulation or enhanced softening.

In the section (b) table, all entries in the "You must report" column are revised to add the citation of the MCL and replace the word "exceeded" with "violated." In the second entry, under the second reporting requirement, the phrase "last quarter" is replaced with "last monitoring period," and in the fourth entry, the language in all four

reporting requirements is revised. In the section (c) table, all entries in the "You must report" column are revised to add the citation of the MRDL and replace the word "exceeded" with "violated." In the section (d) table, the first entry is revised by delete the phrase "prior to continuous disinfection" from the first reporting requirement.

Filtration Provisions: Revisions to § 141.174 add language to clarify that if there is a failure in the continuous turbidity monitoring equipment and the system is conducting grab sampling, the system must repair the equipment within five working days or it is in violation.

EPA believes that the limited changes to the rules outlined above will only minimally alter the estimates of benefits and costs which are associated with the IESWTR and Stage 1 DBPR. Burden associated with the system reporting requirements in § 141.175(c) are covered in an existing ICR (OMB No. 2040-0090) and the estimates are not expected to change.

B. Primacy Rule

The final primacy regulations subject to these corrections increase the time for a State to adopt new or revised Federal regulations from 18 months to two years. Inadvertently, this time increase was not reflected in § 142.12(d)(2) of the final regulations. This rule corrects that error.

In addition, this rule updates the interim primacy provision. Interim primacy gives States full responsibility for implementation and enforcement during the time that EPA reviews the primacy revision application, provided that States have full primacy for all prior National Primary Drinking Water Regulations. When extensions to the time frame for submission of primacy revision applications are granted, States must agree to conditions for rule implementation. These conditions are lifted when a State receives primacy. EPA believes that under the SDWA amendments, these conditions should also be lifted when a State receives interim primacy. Inadvertently, this intent was not reflected in the **Federal Register** of Tuesday, April 28, 1998 (63 FR 23362). Today's change to § 142.12(b)(3)(i) clarifies that the conditions that go with an extension are not necessary after a State receives interim primacy.

III. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency

must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local,

and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule makes minor revisions and corrections to three SDWA regulations. EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, information collection, reporting and record keeping requirements must be submitted to the Office of Management and Budget (OMB) for approval. Information Collection Request (ICR) documents for the original IESWTR, Stage 1DBPR and Primacy Rule were prepared by EPA and approved by OMB (OMB No.'s 2040-0205, 2040-0204, and 2040-0915 respectively) and copies may be obtained from Sandy Farmer by mail at

OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at: farmer.sandy@epamail.epa.gov, or by calling: (202) 260-2740.

The system reporting requirements contained in § 141.175(c) are covered by the general PWSS program ICR (OMB No. 2040-0090). This ICR calculates the burden associated with reporting turbidity exceedences under § 141.75(a)(5). Although § 141.175(c) alters for large systems the level at which turbidity exceedences are reported, data indicate that such systems already have high compliance rates with the new levels and there would be no significant increase in violations and burden associated with this new level. The Part 9 table is amended in this rule to reflect OMB approval of these reporting requirements.

E. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice-and-comment rulemaking requirement 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 government jurisdictions. This rule makes only minor revisions, corrections, and clarifications to promulgated regulations that will facilitate the implementation of those regulations. This rule does not impose additional burden on any regulated small entity since impacts were included in the original rule analysis. The additional reporting requirements contained in today's rule apply only to systems that serve 10,000 or more people. Thus, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113 Section 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.,

material 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 the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action extends the applicability of analytical methods established under the Stage 1 DBPR in the December 16, 1998 **Federal Register**. In developing the Stage 1 DBPR, EPA's process for selecting analytical test methods was consistent with section 12(d) of the NTTAA. EPA performed literature searches to identify analytical methods from industry, academia and voluntary consensus standards, and provided an opportunity for comment. For a more detailed discussion, refer to page 69457 of the Stage 1 DBPR (63 FR 69390, Dec. 16, 1998). Neither the IESWTR nor the Primacy Rule involve standards subject to this Act.

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

Executive Order 12898—"Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994) focuses Federal attention on the environmental and human health conditions of minority populations and low-income populations with the goal of achieving environmental protection for all communities. Today's changes to the IESWTR, Stage 1 DBPR, and Primacy Rule will not diminish the health protection to minority and low-income populations.

H. 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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute,

unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final 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 makes only minor revisions, corrections and clarifications to three SDWA rules that were promulgated in 1998. The result of these revisions, corrections and clarifications will be to facilitate the implementation of these regulations at the State and local levels of government. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

I. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule makes minor revisions, corrections and clarifications to

promulgated regulations. It does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose substantial direct compliance costs on them. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Administrative Procedure Act

EPA is publishing this rule without prior proposal because it views these changes as noncontroversial amendments and anticipates no adverse comment. The changes simply facilitate implementation of existing rules and correct minor typographical errors, and inadvertently deleted text. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for Revisions to the IESWTR, Stage 1 DBPR and Primacy Rule if adverse comments are filed. This rule will be effective on June 13, 2000 without further notice unless EPA receives adverse comment by May 15, 2000. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804 (2). This rule will be effective June 13, 2000.

List of Subjects in 40 CFR Parts 9, 141, and 142

Analytical methods, Drinking water, Environmental protection, Intergovernmental relations, Public utilities, Reporting and recordkeeping

requirements, Reservoirs, Utilities, Water supply, Watersheds.

Dated: April 4, 2000.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735; 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by removing the entry "141.174–141.175" and by adding in numerical order under the indicated heading new entries to read as follows:

§ 9.1 OMB Approvals Under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
* * * * *	
National Primary Drinking Water Regulations	
* * * * *	
141.174(a)–(b)	2040–0205
141.175	2040–0205
141.175(a)–(b)	2040–0205
141.175(c)	2040–0090
* * * * *	

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

3. 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.

§ 141.12 [Amended]

4. Section 141.12 is amended by revising "December 16, 2001" to read "December 31, 2001" and by revising the two occurrences of "December 16, 2003" to read "December 31, 2003".

§ 141.30 [Amended]

5. Amend § 141.30 by:
a. Revising the first sentence of paragraph (e); and

b. In paragraph (h), revising "December 16, 2001" to read "December 31, 2001", and revise the two occurrences of "December 16, 2003" to read "December 31, 2003".

The revision reads as follows:

§ 141.30 Total trihalomethanes sampling, analytical and other requirements.

* * * * *

(e) Sampling and analyses made pursuant to this section shall be conducted by one of the total trihalomethanes methods as directed in § 141.24(e), and the Technical Notes on Drinking Water Methods, EPA–600/R–94–173, October 1994, which is available from NTIS, PB–104766, or in § 141.131(b). * * *

* * * * *

§ 141.64 [Amended]

6. Amend § 141.64 by:
a. In paragraph (b)(1), revising "December 16, 2001" to read "January 1, 2002" and revising "December 16, 2003" to read "January 1, 2004"; and
b. In paragraph (b)(2), revise "December 16, 2003" to read "December 31, 2003".

§ 141.65 [Amended]

7. In § 141.65(b)(1) and (b)(2), revise "December 16, 2001" to read "January 1, 2002" and revise "December 16, 2003" to read "January 1, 2004".

§ 141.71 [Amended]

8. Section 141.71(b)(6) is amended by revising the two occurrences of "December 17, 2001" to read "December 31, 2001".

§ 141.73 [Amended]

9. Amend § 141.73 by:
a. In paragraph (a)(3), revising "December 17, 2001" to read "January 1, 2002"; and
b. In paragraph (d), revising "December 17, 2001" to read "January 1, 2002".

§ 141.130 [Amended]

10. Amend § 141.130 by:
a. Revising paragraph (a)(1); and
b. In paragraphs (b)(1) and (b)(2), revising "December 16, 2001" to read "January 1, 2002" and revising "December 16, 2003" to read "January 1, 2004"; and in paragraph (b)(2), removing the phrase: "and chlorite" from the first and second sentences.

The revision reads as follows:

§ 141.130 General requirements.

(a) * * *

(1) The regulations in this subpart establish criteria under which

community water systems (CWS) and nontransient, noncommunity water systems (NTNCWS) which add a chemical disinfectant to the water in any part of the drinking water treatment process or which provide water that contains a chemical disinfectant, must modify their practices to meet MCLs and MRDLs in §§ 141.64 and 141.65, respectively, and must meet the treatment technique requirements for disinfection byproduct precursors in § 141.135.

* * * * *

§ 141.131 [Amended]

11. Amend § 141.131 by revising the first sentence of paragraph (b)(2) and adding paragraph (b)(3) to read:

§ 141.131 Analytical requirements.

* * * * *

(b) * * *

(1) * * *

(2) Analysis under this section for disinfection byproducts must be conducted by laboratories that have received certification by EPA or the State, except as specified under paragraph (b)(3) of this section. * * *

(3) A party approved by EPA or the State must measure daily chlorite samples at the entrance to the distribution system.

* * * * *

§ 141.132 [Amended]

12. Amend § 141.132 by:

a. In paragraph (a)(2), revising the reference “§ 142.16(f)(5)” to read “§ 142.16(h)(5)”;

b. In paragraph (b)(1)(i), revising the third and fifth entries and the second footnote in the table;

c. Amend paragraph (b)(1)(iii) by revising the second sentence and adding a new third sentence, redesignating paragraph (b)(1)(iv) as (b)(1)(v), adding a new paragraph (b)(1)(iv); and

d. Revising the first sentence in paragraph (c)(1)(i).

The revisions read as follows:

§ 141.132 Monitoring requirements.

* * * * *

(b) * * *

(1) * * *

ROUTINE MONITORING FREQUENCY FOR TTHM AND HAA5

Type of system	Minimum monitoring frequency	Sample location in the distribution system
* * *	* * *	* * *
Subpart H system serving fewer than 500 persons.	One sample per year per treatment plant during month of warmest water temperature.	Locations representing maximum residence time. ¹ If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in paragraph (b)(1)(iv) of this section.
* * *	* * *	* * *
System using only ground water not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons.	One sample per year per treatment plant ² during month of warmest water temperature.	Locations representing maximum residence time. ¹ If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets reduced monitoring criteria in paragraph (b)(1)(iv) of this section for reduced monitoring.
* * *	* * *	* * *

¹ If a system elects to sample more frequently than the minimum required, at least 25 percent of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

² Multiple wells drawing water from a single aquifer may be considered one treatment plant for determining the minimum number of samples required, with State approval in accordance with criteria developed under § 142.16(h)(5) of this chapter.

* * * * *

(iii) * * * Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (b)(1)(i) of this section (sample location column) in the quarter immediately following the quarter in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHMs or HAA5 respectively. For systems using only ground water not under the direct influence of surface water and serving fewer than 10,000 persons, if either the TTHMs annual average is >0.080 mg/L or the HAA5 annual average is >0.060 mg/L, the system must go to increased monitoring identified in paragraph (b)(1)(i) of this section (sample location column) in the quarter immediately following the quarter in which the system exceeds

0.080 mg/L or 0.060 mg/L for TTHMs or HAA5 respectively.

(iv) Systems on increased monitoring may return to routine monitoring if TTHM annual average is ≤0.040 mg/L and HAA5 annual average is ≤0.030 mg/L.

* * * * *

(c) * * *

(1) * * *

(i) *Routine monitoring.* Community and nontransient noncommunity water systems that use chlorine or chloramines must measure the residual disinfectant level in the distribution system when total coliforms are sampled, as specified in § 141.21. * * *

* * * * *

§ 141.133 [Amended]

13. Amend § 141.133 by:

a. In the first sentence of paragraph (a)(1), revising “system’s” to read “system”, and revising the first occurrence of “failure” to read “fails” and

b. Removing the last two sentences of paragraph (b)(1)(i), revising paragraphs (b)(1)(ii) and (iii), and adding new paragraph (b)(1)(iv);

c. Removing the phrase “of quarterly averages” in the second sentence of paragraph (c)(1)(i) and adding the phrase “in addition to reporting to the State pursuant to § 141.134” to the end of the second and third sentences in paragraph (c)(2)(i) and the second and third sentences of paragraph (c)(2)(ii); and

d. In paragraph (d), revising the reference “§ 141.135(b)” in the first

sentence to read “§ 141.135(c)” adding a sentence to the end of paragraph (d).

The revisions and additions read as follows:

§ 141.133 Compliance requirements.

* * * * *

(b) * * *

(1) * * *

(ii) For systems monitoring less frequently than quarterly, systems demonstrate MCL compliance if the average of samples taken that year under the provisions of § 141.132(b)(1) does not exceed the MCLs in § 141.64. If the average of these samples exceeds the MCL, the system must increase monitoring to once per quarter per treatment plant and such a system is not in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to

exceed the MCL, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(iii) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to § 141.32 in addition to reporting to the State pursuant to § 141.134.

(iv) If a PWS fails to complete four consecutive quarters of monitoring, compliance with the MCL for the last four-quarter compliance period must be based on an average of the available data.

* * * * *

(d) * * * For systems required to meet Step 1 TOC removals, if the value calculated under § 141.135(c)(1)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to § 141.32, in addition to reporting to the State pursuant to § 141.134.

§ 141.134 [Amended]

14. Amend § 141.134 by:

- a. In paragraph (b), revising the table.
- b. In paragraph (c), revising the table; and
- (c). In paragraph (d), revising the first entry.

The revisions read as follows:

§ 141.134 Reporting and recordkeeping requirements.

* * * * *

(b) * * *

If you are a . . .

You must report. . .¹

- | | |
|--|--|
| <p>(1) System monitoring for TTHMs and HAA5 under the requirements of § 141.132(b) on a quarterly or more frequent basis.</p> | <p>(i) The number of samples taken during the last quarter.
 (ii) The location, date, and result of each sample taken during the last quarter.
 (iii) The arithmetic average of all samples taken in the last quarter.
 (iv) The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.
 (v) Whether, based on § 141.133(b)(1), the MCL was violated.</p> |
| <p>(2) System monitoring for TTHMs and HAA5 under the requirements of § 141.132(b) less frequently than quarterly (but at least annually).</p> | <p>(i) The number of samples taken during the last year.
 (ii) The location, date, and result of each sample taken during the last monitoring period.
 (iii) The arithmetic average of all samples taken over the last year.
 (iv) Whether, based on § 141.133(b)(1), the MCL was violated.</p> |
| <p>(3) System monitoring for TTHMs and HAA5 under the requirements of § 141.132(b) less frequently than annually.</p> | <p>(i) The location, date, and result of the last sample taken.
 (ii) Whether, based on § 141.133(b)(1), the MCL was violated.</p> |
| <p>(4) System monitoring for chlorite under the requirements of § 141.132(b).</p> | <p>(i) The number of entry point samples taken each month for the last 3 months.
 (ii) The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.
 (iii) For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.
 (iv) Whether, based on § 141.133(b)(3), the MCL was violated, in which month, and how many times it was violated each month.</p> |
| <p>(5) System monitoring for bromate under the requirements of § 141.132(b).</p> | <p>(i) The number of samples taken during the last quarter.
 (ii) The location, date, and result of each sample taken during the last quarter.
 (iii) The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.
 (iv) Whether, based on § 141.133(b)(2), the MCL was violated.</p> |

¹ The State may choose to perform calculations and determine whether the MCL was exceeded, in lieu of having the system report that information.

(c) * * *

If you are a . . .

You must report. . .¹

- | | |
|--|---|
| <p>System monitoring for chlorine or chloramines under the requirements of § 141.132(c).</p> | <p>(1) The number of samples taken during the last quarter.
 (2) The monthly arithmetic average of all samples taken in each month for the last 12 months.
 (3) The arithmetic average of all monthly averages for the last 12 months.
 (4) Whether, based on § 141.133(c)(1), the MRDL was violated.</p> |
| <p>System monitoring for chlorine dioxide under the requirements of § 141.132(c).</p> | <p>(1) The dates, results, and locations of samples taken during the last quarter.
 (2) Whether, based on § 141.133(c)(2), the MRDL was violated.</p> |

If you are a . . .

You must report. . .¹

(3) Whether the MRDL was exceed in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

¹The State may choose to perform calculations and determine whether the MRDL was exceeded, in lieu of having the system report that information.

(d) * * *

If you are a . . .

You must report. . .¹

System monitoring monthly or quarterly for TOC under the requirements of § 141.132(d) and required to meet the enhanced coagulation or enhanced softening requirements in § 141.135(b)(2) or (3).

- (1) The number of paired (source water and treated water) samples taken during the last quarter.
- (2) The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.
- (3) For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.
- (4) Calculations for determining compliance with the TOC percent removal requirements, as provided in § 141.135(c)(1).
- (5) Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in § 141.135(b) for the last four quarters.

* * * * *

¹The State may choose to perform calculations and determine whether the treatment technique was met, in lieu of having the system report that information.**§ 141.135 [Amended]**

15. Amend § 141.135 by:

a. In paragraph (a)(2)(iii), revising “as required by” in the first sentence of to read “according to”, and revising “June 16, 2005” to read “June 30, 2005”;

b. In paragraph (b), removing the phrase “(as aluminum)” wherever it appears and revising paragraph (b)(4);

c. In paragraph (b)(2), revising the table entitled: “Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Subpart H Systems Using Conventional Treatment,” and;

d. In paragraph (c)(1), revising the first sentence.

The revisions read as follows:

§ 141.135 Treatment technique for control of disinfection byproduct (DBP) precursors.

* * * * *

(b) * * *

(1) * * *

(2) * * *

STEP 1 REQUIRED REMOVAL OF TOC BY ENHANCED COAGULATION AND ENHANCED SOFTENING FOR SUBPART H SYSTEMS USING CONVENTIONAL TREATMENT^{1, 2}

Source-water TOC, mg/L	Source-water alkalinity, mg/L as CaCO ₃		
	0–60 (percent)	>60–120 (percent)	>120 ³ (percent)
>2.0–4.0	35.0	25.0	15.0
>4.0–8.0	45.0	35.0	25.0
>8.0	50.0	40.0	30.0

¹ Systems meeting at least one of the conditions in paragraph (a)(2)(i)–(vi) of this section are not required to operate with enhanced coagulation.² Softening system meeting one of the alternative compliance criteria in paragraph (a)(3) of this section are not required to operate with enhanced softening.³ System practicing softening must meet the TOC removal requirements in this column.

(3) * * *

(4) *Alternate minimum TOC removal (Step 2) requirements.* Applications made to the State by enhanced coagulation systems for approval of alternate minimum TOC removal (Step 2) requirements under paragraph (b)(3) of this section must include, as a minimum, results of bench- or pilot-scale testing conducted under paragraph (b)(4)(i) of this section. The submitted bench- or pilot-scale testing must be

used to determine the alternate enhanced coagulation level.

(c) * * *

(1) Subpart H systems other than those identified in paragraph (a)(2) or (a)(3) of this section must comply with requirements contained in paragraphs (b)(2) or (b)(3) of this section. * * *

* * * * *

§ 141.170 [Amended]

16. Section 141.170(a) is amended by revising “December 17, 2001” to read “January 1, 2002”.

§ 141.172 [Amended]

17. Amend § 141.172 by:

a. In paragraph (a)(2)(iii)(A), revising “March 16, 2000” to read “March 31, 2000”;

b. In paragraph (a)(5)(i), revising “December 16, 1999” to read “December 31, 1999” wherever it appears;

c. In paragraph (a)(5)(iii), revising “March 16, 2000” to read “March 31, 2000”;

d. In paragraph (b)(2) introductory text, revising “March 16, 2000” to read “April 1, 2000”;

e. In paragraph (b)(3)(i), revising “March 16, 2000” to read “March 31, 2000”; and

f. In paragraph (b)(4)(ii), revising the last sentence.

The revisions read as follows:

§ 141.172 Disinfection profiling and benchmarking.

* * * * *

(b) * * *

(4) * * *

(ii) * * * The $(CT_{calc}/CT_{99.9})$ value of each segment and $(\Sigma(CT_{calc}/CT_{99.9}))$ must be calculated using the method in paragraph (b)(4)(i) of this section.

* * * * *

§ 141.173 [Amended]

18. In § 141.173, amend the introductory text by revising “December 17, 2001” to read “December 31, 2001”.

§ 141.174 [Amended]

19. Section 141.174 is amended by revising paragraph (b) to read as follows:

§ 141.174 Filtration sampling requirements.

* * * * *

(b) If there is a failure in the continuous turbidity monitoring equipment, the system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-

line. A system has a maximum of five working days after failure to repair the equipment or it is in violation.

§ 141.175 [Amended]

20. Amend § 141.175 by revising the two occurrences of “December 17, 2001” to read “January 1, 2002” in the introductory text and adding paragraph (c) to read as follows:

§ 141.175 Reporting and recordkeeping requirements.

* * * * *

(c) *Additional reporting requirements.*

(1) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the State as soon as possible, but no later than the end of the next business day.

(2) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the State under § 141.173(b) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system must inform the State as soon as possible, but no later than the end of the next business day.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

21. The authority citation for part 142 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.

§ 142.12 [Amended]

22. In § 142.12, revise paragraph (b)(3)(i), and the last sentence of (d)(2), to read as follows:

§ 142.12 Revision of State programs.

* * * * *

(b) * * *

(3) * * *

(i) Informing public water systems of the new EPA (and upcoming State) requirements and that EPA will be overseeing implementation of the requirements until the State, if eligible for interim primacy, submits a complete and final primacy revision request to EPA, or in all other cases, until EPA approves the State program revision;

* * * * *

(d) * * *

(2) *Final request.* * * * Complete and final State requests for program revisions shall be submitted within two years of the promulgation of the new or revised EPA regulations, as specified in paragraph (b) of this section.

* * * * *

§ 142.15 [Amended]

23. In § 142.15, paragraph (c)(5), revise the reference “§ 141.16(b)(3)” to read “§ 142.16(b)(3)”.

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