

reasonable alternative source of drinking water is available to the new system; (3) the exemption will not result in an unreasonable risk to health; and (4) management or restructuring changes (or both) cannot reasonably result in compliance with the Act or improve the quality of drinking water.

If EPA or the State grants an exemption to a public water system, it must at the same time prescribe a schedule for compliance (including increments of progress or measures to develop an alternative source of water supply) and implementation of appropriate control measures that the State requires the system to meet while the exemption is in effect. Under section 1416(b)(2)(A), the schedule shall require compliance as expeditiously as practicable (to be determined by the State), but no later than three years after the otherwise applicable compliance date for the regulations established pursuant to section 1412(b)(10). For public water systems that do not serve more than a population of 3,300 and that need financial assistance for the necessary improvements, EPA or the State may renew an exemption for one or more additional two-year periods, but not to exceed a total of six years.

A public water system shall not be granted an exemption unless it can establish that: (1) The system cannot meet the standard without capital improvements that cannot be completed prior to the date established pursuant to section 1412(b)(10); or (2) in the case of a system that needs financial assistance for the necessary implementation, the system has entered into an agreement to obtain financial assistance pursuant to section 1452 or any other Federal or state program; or (3) the system has entered into an enforceable agreement to become part of a regional public water system.

EPA believes that granting an exemption to the *Cryptosporidium* treatment requirements of the LT2ESWTR would result in an unreasonable risk to health. As described in section II.C, *Cryptosporidium* causes acute health effects, which may be severe in sensitive subpopulations and include risk of mortality. Moreover, the additional *Cryptosporidium* treatment requirements of the LT2ESWTR are targeted to systems with the highest degree of risk. Due to these factors, EPA is not proposing to allow exemptions under the LT2ESWTR.

3. Request for Comment

a. *Variances*. EPA requests comment on the determination that the provisions for granting variances are not applicable

to the proposed LT2ESWTR, specifically including *Cryptosporidium* inactivation requirements for unfiltered systems.

In theory it would be possible for an unfiltered system to demonstrate raw water *Cryptosporidium* levels that were 3 log lower than the cutoff for bin 1 for filtered systems and, thus, that it may be providing comparable public health protection without additional inactivation. However, EPA has determined that in practice it is not currently economically or technologically feasible for systems to ascertain the level of *Cryptosporidium* at this concentration. This is due to the extremely large number and volume of samples that would be necessary to make this demonstration with sufficient confidence. Based on this determination and the *Cryptosporidium* occurrence data described in section III.C, EPA is not proposing to allow unfiltered systems to demonstrate raw water *Cryptosporidium* levels low enough to avoid inactivation requirements. EPA requests comment on this approach.

b. *Exemptions*. EPA requests comment on the determination that granting an exemption to the *Cryptosporidium* treatment requirements of the LT2ESWTR would result in an unreasonable risk to health.

I. Requirements for Systems To Use Qualified Operators

The SWTR established a requirement that each public water system using a surface water source or a ground water source under the direct influence of surface water must be operated by qualified personnel who meet the requirements specified by the State (40 CFR 141.70). The Stage 1 DBPR extended this requirement to include all systems affected by that rule, and required that States maintain a register of qualified operators (40 CFR 141.130(c)). While the proposed LT2ESWTR establishes no new requirements regarding the operation of systems by qualified personnel, the Agency would like to emphasize the important role that qualified operators play in delivering safe drinking water to the public. EPA encourages States that do not already have operator certification programs in effect to develop such programs. States should also review and modify, as required, their qualification standards to take into account new technologies (e.g., ultraviolet disinfection) and new compliance requirements.

J. System Reporting and Recordkeeping Requirements

1. Overview

Today's proposal includes reporting and recordkeeping requirements associated with proposed monitoring and treatment requirements. As described earlier, systems must conduct source water monitoring to determine a treatment bin classification for filtered systems or a mean *Cryptosporidium* level for unfiltered systems. Systems with previously collected monitoring data may be able to use (i.e., grandfather) those data in lieu of conducting new monitoring. Following source water monitoring, systems will be required to comply with any additional *Cryptosporidium* treatment requirements by implementing treatment and control strategies from a microbial toolbox of options. Systems must conduct a second round of source water monitoring six years after bin classification.

In addition, systems using uncovered finished water storage facilities must cover the facility or provide treatment unless the system implements a State-approved risk management strategy. Certain systems will be required to conduct disinfection profiling and benchmarking.

The proposed rule requires public water systems to submit schedules for *Cryptosporidium*, *E. coli*, and turbidity sampling at least 3 months before monitoring must begin. Source water sample analysis results must be reported not later than ten days after the end of first month following the month when the sample is collected. As described later, large systems (at least 10,000 people served) will report monitoring results from the initial round of monitoring directly to EPA through an electronic data system. Small systems will report monitoring results to the State. Both small and large systems will report monitoring results from the second round of monitoring to the State.

Systems must report a bin classification (filtered systems) or mean *Cryptosporidium* level (unfiltered systems) within six months following the month when the last sample in a particular round of monitoring is scheduled to be collected. If systems are required to provide additional treatment for *Cryptosporidium*, they must report regarding the use of microbial toolbox components. Systems must notify the State within 24 months following promulgation of the rule if they use uncovered finished water storage facilities. Systems must also make reports related to disinfection profiling and benchmarking. Reporting