

2. How Did EPA Develop This Proposal?

EPA is proposing provisions for simultaneous rule compliance with the LT2ESWTR to maintain a balance between DBP and microbial risks. Simultaneous compliance was mandated by the 1996 SDWA Amendments which require that EPA “minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants, the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level” (Sec. 1412(b)(5)(B)(i)).

If systems were required to comply with the Stage 2 DBPR prior to the LT2ESWTR, systems could lower their disinfectant dose or switch to a less effective disinfectant in an attempt to decrease DBP levels. This practice could leave segments of the population exposed to greater microbial risks. Therefore, simultaneous compliance was a consensus recommendation of the Stage 2 M-DBP Advisory Committee to ensure that systems would not compromise microbial protection while attempting to meet more stringent DBP requirements.

The Advisory Committee supported the Initial Distribution System Evaluation, as discussed in section V.H, and EPA is proposing an IDSE schedule consistent with the Advisory Committee’s recommendations, in which systems are required to submit their IDSE reports to the State either two or to four years following rule promulgation. The Advisory Committee recommended this to allow enough time for the State to review (and revise, if necessary) systems’ recommendations for Stage 2B monitoring locations and to allow systems three years after completion of the State review to comply with Stage 2B MCLs as LRAAs at Stage 2B monitoring locations.

This schedule requires systems serving $\geq 10,000$ people and smaller wholesale and consecutive systems that are part of a combined distribution system that includes at least one system

serving $\geq 10,000$ to complete IDSE monitoring and prepare and submit the IDSE report two years after the rule is finalized. This requirement for wholesale systems and consecutive systems serving fewer than 10,000 that are part of a combined distribution system with at least one system serving at least 10,000 to conduct an “early IDSE” allows the wholesale system to be aware of compliance challenges facing the consecutive system and to implement treatment plant capital and operational improvements as necessary to ensure compliance. The Advisory Committee and EPA both recognized that DBPs, once formed, are difficult to remove and are generally best addressed by treatment plant improvements.

While this schedule allows for systems to have the three years to comply with Stage 2B following State review of the IDSE report, it begins prior to States being required to obtain primacy to implement the IDSE. States have two years from promulgation to adopt and implement new regulations and may request a two year extension. While EPA is preparing to support implementation of those IDSE requirements that must be completed prior to States achieving primacy, several States have expressed concern about EPA providing guidance and reviewing reports from systems that the State has permitted, inspected, and worked with for a long time. These States believe that their familiarity with the systems enables them to make the best decisions to implement the rule and protect public health.

As specific rule requirements were developed and implementation schedules and resource burdens determined, States also expressed concerns about the challenges that early implementation posed. In response to these concerns, EPA has developed several alternatives to the IDSE schedule and provisions that may meet the goals of the IDSE, but allow for greater State involvement, lower implementation burden, and no delay of the public health protection assured by compliance with Stage 2B.

The first, the “Alternative IDSE” option, would delay the schedule for each IDSE requirement for two years. Since the compliance date for Stage 2B would not be delayed, systems would need to implement changes necessary for compliance on a much shorter schedule.

The second, the “Concurrent Compliance Monitoring” option, would eliminate the IDSE but require compliance monitoring at an increased number of sites during the first year of compliance monitoring as a way to identify sites with high DBP levels. This option would reduce government oversight and management and, as with other rules, leave compliance determinations and preparations to individual systems (with guidance available from States). In addition to compliance monitoring at Stage 1 DBPR compliance monitoring sites during the first year under Stage 2B, systems would also monitor at additional compliance monitoring sites equal in number to the IDSE requirement and selected using the same criteria that systems use to select IDSE monitoring sites. Following one year of concurrent compliance monitoring, the system would select routine Stage 2B compliance monitoring locations using a protocol similar to the one used to recommend Stage 2B compliance monitoring locations in the IDSE report.

Neither alternative would extend the compliance dates for either Stage 2A or Stage 2B. As with the proposed IDSE, systems would be eligible for the 40/30 certification approach if all TTHM and HAA5 compliance monitoring results in the two years prior to the effective date were below 0.040 mg/L and 0.030 mg/L, respectively. States would be able to grant very small system waivers to systems serving < 500 with a State finding that Stage 1 DBPR compliance monitoring locations sites are adequate to represent both high TTHM and high HAA5 concentrations. Table V-11 contains a comparison of the proposed IDSE schedule and the schedules for the alternatives.