

TTHM PE acceptance criteria proposed in today's rule. Many water system laboratories are certified to perform TTHM analyses and will be able to incorporate the IDSE TTHM samples from their systems into the laboratory schedule. It is reasonable to expect that commercial laboratories will be able to handle the remainder of the TTHM samples. (EPA does not have a current estimate of the number of laboratories certified to perform TTHM analyses. However, if the number of IDSE samples from large systems was evenly spread over the 600 laboratories that were certified in 1991, this would be less than 40 additional samples per month for each laboratory. Analysis of 40 TTHM samples would involve less than two days of analyst and instrument time which does not seem unreasonable for commercial laboratories to accommodate.)

Analyses of the HAA5 samples will present a greater challenge, because certification is relatively new for this measurement. EPA anticipates that most of the HAA5 samples will be analyzed by commercial and State laboratories, because the methods are more complex than the TTHM analyses and monitoring was not widely required until January 2002. Laboratories were not required to be certified to perform HAA5 analyses until January 2002. However, the PE Study results from 1996–1998 indicate that over 130 laboratories were performing HAA5 analyses during that time frame and approximately 100 of those laboratories were capable of meeting the HAA5 PE acceptance criteria proposed in today's rule. Ninety-four laboratories were approved to perform HAA analyses during the Information Collection Rule; twenty-seven of them were commercial laboratories and nine were State laboratories. EPA anticipates that large commercial laboratories already certified to perform HAA5 analyses will recognize this market potential and add staff and instrumentation to accommodate the increased demand.

Most systems serving <10,000 people will not begin their IDSE studies until after the large systems have completed their studies. Even though the potential number of samples is greater, the small systems have two additional years in which to complete their studies, so there is more opportunity to schedule the sampling in such a manner that laboratory capacity is maintained. The laboratory capacity should be readily available by the time analyses of these samples are required.

5. Request for Comments

EPA requests comments concerning the appropriateness of the proposed PE acceptance criteria.

EPA solicits comments as to whether an MRL lower than 2 µg/L is feasible for MCAA and if so, what should that MRL concentration be?

EPA requests comments concerning whether the MRL for chlorite should be based on the sensitivity of the method (*i.e.*, 20. µg/L) or on the expected concentration range of the samples (*i.e.*, 200. µg/L).

EPA solicits comments concerning which MRL approach should be considered for bromate. Specifically, should EPA set the MRL based on the capability of the method which would mean that two different MRLs are defined or should one MRL be established based on either the least or most sensitive method?

EPA requests comments concerning the appropriateness of the MRL certification requirements and whether additional certification requirements should be considered.

EPA solicits comments on the availability of laboratory capacity to perform TTHM and HAA5 analyses for IDSE studies.

VI. State Implementation

This section describes the regulations and other procedures and policies States would have to adopt to implement the Stage 2 DBPR, if finalized as proposed today. States must continue to meet all other conditions of primacy in 40 CFR part 142.

The SDWA establishes requirements that a State or eligible Indian Tribe must meet to assume and maintain primary enforcement responsibility (primacy) for its public water systems. These SDWA requirements include: (1) adopting drinking water regulations that are no less stringent than Federal drinking water regulations, (2) adopting and implementing adequate procedures for enforcement, (3) keeping records and making reports available on activities that EPA requires by regulation, (4) issuing variances and exemptions (if allowed by the State), under conditions no less stringent than allowed under the SDWA, and (5) adopting and being capable of implementing an adequate plan for the provision of safe drinking water under emergency situations. General rule implementation activities include notifying systems of rule requirements, updating internal and external databases, providing training and technical assistance, and reviewing (and, if necessary, approving) monitoring and other reports and plans.

To receive primacy for the Stage 2 DBPR, when final, States will be required to adopt the following new or revised requirements under their own regulations:

- Section 141.33(a) and (f), Record maintenance;
- Section 141.64, MCLs for disinfection byproducts;
- Subpart L, Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors;
- Subpart O, Consumer Confidence Reports;
- Subpart Q, Public Notification of Drinking Water Violations;
- Subpart U, Initial Distribution System Evaluation; and
- Subpart V, Stage 2B Disinfection Byproducts Requirements.

In addition to adopting basic primacy requirements specified in 40 CFR part 142, States are required to address applicable special primacy conditions. Special primacy conditions pertain to specific regulations where implementation of the rule involves activities beyond general primacy provisions. The purpose of these special primacy requirements in today's proposal is to ensure State flexibility in implementing a regulation that: (1) Applies to specific system configurations within the particular State and (2) can be integrated with a State's existing Public Water Supply Supervision Program. States must include these rule-distinct provisions in an application for approval or revision of their program. These primacy requirements for implementation flexibility are discussed in the following section.

A. State Primacy Requirements for Implementation Flexibility

To ensure that a State program includes all the elements necessary for an effective and enforceable program within that State under today's rule, a State primacy application must include a description of how the State will review IDSE reports and approve new or revised monitoring sites for long-term DBP compliance monitoring. If a State will use the authority to grant blanket waivers for IDSE requirements to very small systems, it must comply with the special primacy provision for granting such waivers. A State that intends to use the authority for addressing consecutive system monitoring requirements must include a description of how it intends to implement that authority. A State primacy application must also include a description of how the State will require systems to identify significant excursions.