

B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the allowance banking provisions in Virginia's NO_x Budget Trading Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone.

Dated: August 18, 2004.

Richard J. Kampf,
Acting Regional Administrator

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entry for 9 VAC 5, Chapter 140, section 5–140–550 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
* * *	* * *	* * *	* * *	* * *
Chapter 140	NO _x Budget Trading Program [Part I]			
Part I Emission Standards				
* * *	* * *	* * *	* * *	* * *
Article 6	NO _x Allowance Tracking System			
* * *	* * *	* * *	* * *	* * *
5–140–550	Banking	March 24,	August 25, 2004.	
* * *	* * *	* * *	* * *	* * *

§ 52.2450 [Amended]

■ 3. In § 52.2450, paragraph (c) is removed and reserved.

[FR Doc. 04–19432 Filed 8–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 141**

[OW–2003–0067; FRL–7805–5]

RIN 2040–AE62

National Primary Drinking Water Regulations: Analytical Method for Uranium

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the use of three additional analytical methods for compliance determinations of uranium in drinking water. These methods use an inductively coupled plasma mass spectrometry (ICP–MS) technology that has gained wide acceptance in the analytical community. EPA believes that ICP–MS analytical methods could be more cost-effective, less labor-intensive or more sensitive than some of the technologies previously approved in the December 2000 Radionuclides rule. (65 FR 76708) This rule does not withdraw approval of any previously approved monitoring methods for uranium.

DATES: This rule is effective on August 25, 2004. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of August 25, 2004.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OW–2003–0067. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, 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 in EDOCKET or in hard copy at the OW Docket, EPA/DC, EPA West, Room B102, 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 Docket Center is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT:

General Information—Lisa Christ, Office of Ground Water and Drinking Water, Mail Code: 4606M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8354; e-mail address: christ.lisa@epa.gov, Technical information—David Huber, Office of Ground Water and Drinking

Water, Mail Code: 4606M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4878; e-mail address: huber.david@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

Entities potentially regulated by this regulation are public water systems that are classified as community water

systems (CWSs). A community water system (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities	NAICS ¹
Industry	Privately-owned community water systems.	221310
State, tribal, local, and Federal Government	Publicly-owned community water systems.	924110

¹ National American Industry Classification System.

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 § 141.66 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.

II. What Is EPA's Statutory Authority and Background for This Final Rule?

The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to promulgate national primary drinking water regulations (NPDWRs) that specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (SDWA section 1412 (42 U.S.C. 300g–1)). NPDWRs apply to public water systems pursuant to SDWA section 1401 (42 U.S.C. 300f(1)(A)). According to SDWA section 1401(1)(D), NPDWRs include “criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including accepted methods for quality control and testing procedures.” In addition, SDWA section 1445(a) authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA. EPA's promulgation of analytical methods is authorized under these sections of the SDWA, as well as the general rulemaking authority in SDWA section 1450(a), (42 U.S.C. 300j–

9(a)). The action proposed herein would affect CWSs. CWSs are a subset of public water systems. (40 CFR 141.2)

On December 7, 2000 (65 FR 76708), EPA published a final radionuclides rule in the **Federal Register** that included monitoring requirements and a MCL of 30 micrograms per liter (30 µg/L) for uranium that took effect in December 2003. In the preamble to the December 2000 rule, EPA noted that several commenters asked EPA to consider the approval of compliance monitoring methods that use an inductively coupled plasma mass spectrometry (ICP–MS) technology. (65 FR 76724) These commenters suggested that ICP–MS analytical methods could be more cost-effective, less labor-intensive or more sensitive than some of the technologies approved in the December 2000 rule. In response to these comments, EPA stated that the Agency was reviewing ICP–MS technology for possible proposal in a future rulemaking.

EPA proposed the approval of three methods that use ICP–MS technology for compliance determinations of uranium in drinking water in the **Federal Register** on June 2, 2004 (69 FR 31068). Specifically, EPA proposed the approval of ICP–MS methods published by EPA, ASTM International, and the Standard Methods (SM) Committee (EPA 200.8, ASTM D5673–03, and SM 3125). The proposed approval of the three ICP–MS methods did not, and does not, affect approval of the 15 methods already specified at 40 CFR 141.25(a) for compliance determinations of uranium.

EPA has completed its review of the comments received on the June 2, 2004, proposal and is today approving the three ICP–MS methods described above. The methods are very similar and are published by EPA, American Society for Testing and Materials International

(ASTM), and the Standard Methods (SM) Committee. The methods are EPA 200.8, ASTM D5673–03, and SM 3125.

III. What Is EPA Doing Today?

EPA is taking final action to approve the use of three additional analytical methods for compliance determinations of uranium in drinking water. These methods use an ICP–MS technology that has gained wide acceptance in the analytical community. Method EPA 200.8 was published by EPA in 1994; method ASTM D5673–03 was published by ASTM International in 2003; and SM 3125 was published by the Standard Methods Committee in 1998. In today's action, EPA is approving the use of these ICP–MS methods for compliance determinations of uranium in drinking water.

This rule will be effective on August 25, 2004. Making this rule effective immediately is in the public interest. Because use of EPA-approved analytical methods is required, approval of these relatively inexpensive methods is expected to garner considerable cost savings. It is EPA's expectation that reducing the burdens on community water systems will encourage compliance with testing requirements themselves. Hence, today's rule expanding the limited number of available test methods for compliance determinations of uranium in drinking water should provide considerable relief to community water systems and EPA finds that it has good cause to make this rule effective immediately.

IV. Summary of ICP–MS Technology

EPA reviewed ICP–MS methods published by EPA, ASTM International, and the Standard Methods Committee. In each of these methods, sample material in solution is introduced by pneumatic nebulization into a radiofrequency plasma where energy

transfer processes cause desolvation, atomization, and ionization. The ions are extracted from the plasma through a differentially pumped vacuum interface and separated on the basis of their mass-to-charge ratio by a quadrupole mass spectrometer having a minimum resolution capability of one atomic mass unit peak width at five percent peak height. The ions transmitted through the quadrupole are detected by an electron multiplier or Faraday detector and the ion information processed by a data handling system. The sensitivity of each ICP-MS method for compliance determinations of uranium in drinking water is acceptable and is sensitive enough to detect at less than one part per billion (1 ug/L). The uranium MCL is 30 ug/L.

EPA reviewed each of these methods for performance and applicability to compliance determinations of uranium in drinking water. Three of these methods, EPA 200.8, ASTM D5673-03, and SM 3125, have acceptable performance and are otherwise suitable for compliance determinations of uranium in drinking water. Method EPA 200.8 was published by EPA in 1994; method ASTM D5673-03 was published by ASTM International in 2003; and SM 3125 was published by the Standard Methods Committee in 1998. In today's action, EPA is approving the use of these ICP-MS methods for compliance determinations of uranium in drinking water. EPA is taking this action in response to stakeholder requests.

EPA is not, in today's action, approving the use of these methods for any other purposes. EPA notes that EPA 200.8 was approved for compliance determinations of several regulated metals in drinking water on December 5, 1994. (59 FR 62456) EPA also recognizes that the other two ICP-MS methods approved through today's action for determination of uranium may also be applicable to monitoring for other drinking water contaminants. Although the analytical scope of ASTM D5673-03 and SM 3125 extends beyond uranium, these two methods were not published until 2003 and 1998, respectively. In a later rulemaking, EPA may consider extending the use of ASTM D5673-03 and SM 3125 to compliance determinations of other regulated metals.

Like fluorometric and laser phosphorimetry methods, ICP-MS measures uranium mass only; therefore, all caveats discussed in the December 2000 Radionuclides Rule on using mass methods to determine contributions to gross alpha also apply. (65 FR 76724)

Today's final rule does not affect approval of the 15 methods already

specified at 40 CFR 141.25(a) for compliance determinations of uranium.

V. Response to Comment

EPA received a somewhat ambiguous letter during the public comment period of the proposed rule (69 FR 31068) that was published in the **Federal Register** on June 2, 2004. The Agency has withdrawn the direct final rule because of this letter. The commenter did not explicitly object to the approval of any of the three ICP-MS methods; however, he did seek clarification regarding the relationship of certain laboratory certification measures to these analytical methods. Specifically, the commenter noted that "in the 'Manual for the Certification of Laboratories Analyzing Drinking Water' all methods for uranium are addressed in the Radiochemistry chapter even though not all the methods are radiochemical based, e.g., fluorometric and laser phosphorimetry. Unfortunately, the final and proposed actions don't address if the Radiochemistry chapter should also be applied to the ICP-MS determination of uranium."

While the Agency does not believe the comment is directly relevant to the merits of the ICP-MS method itself, the Agency chooses to address it. The cited laboratory certification document is an EPA publication that States may use as a reference in developing programs for the certification of laboratories to conduct compliance monitoring under the Safe Drinking Water Act. The Agency believes that it is likely that States will apply the Radiochemistry chapter to the use of the ICP-MS methods approved in today's final rule, though that decision rests with the States.

The commenter also cited an alternate test procedures (ATP) Protocol for Organic and Inorganic Analytes. This protocol (EPA 821-B-98-002) was published by EPA in March 1999. The commenter stated that he believes that it is "unclear from the final and proposed actions if any of the indicated methods are being designated as the reference method for ATP purposes."

The ATP protocol applies only to the comparison of alternate test procedures for the determination of chemicals. This protocol does not apply to comparison of alternate test procedures for the determination of radionuclides, and EPA has not developed a protocol for radionuclides.

VI. Statutory and Executive Order Reviews

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. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any new requirements; rather, it approves three additional voluntary analytical methods for compliance determinations of uranium in drinking water.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

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 government 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. secs. 601(3)–(5). In addition, to establish an alternative small business definition, agencies must consult with the Small Business Administration's (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 serving 10,000 or fewer persons. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, 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 for all future drinking water regulations 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.

This final rule imposes no cost on any entities over and above those imposed by the final Radionuclides Rule. (65 FR 76708) This action merely allows three additional analytical methods for compliance determinations of uranium in drinking water. The use of these methods is voluntary because drinking water systems can continue to use the existing approved methods.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule are public water systems serving 10,000 or fewer persons. We have determined that no number of small entities will be impacted by this voluntary action because drinking water systems can continue to use the existing approved methods.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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 contains no Federal mandates (under the regulatory provision of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. It merely provides drinking water utilities with three additional voluntary analytical methods to use to meet existing monitoring requirements. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. The adoption and use of these methods is voluntary because drinking water systems can continue to use the existing approved methods. Thus, today's rule is not subject to the requirements of section 203 of the UMRA.

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 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. There is no cost to State and local governments, and the final rule does not preempt State law. This final rule imposes no cost on any State, or local governments. This final rule merely provides for the voluntary use of three additional analytical methods for compliance determinations of uranium in drinking water. Thus, Executive Order 13132 does not apply to this final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, (November 9, 2000)), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. There is no cost to tribal governments, and the final rule does not preempt tribal law. This final rule imposes no additional cost on any tribal government. This final rule merely provides for the voluntary use of three additional analytical methods for compliance determinations of uranium in drinking water. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This final rule merely provides for the voluntary use of three additional analytical methods for compliance determinations of uranium in drinking water.

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

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (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”), Pub. L. 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 rulemaking involves technical standards. In addition to approving EPA 200.8, EPA has decided to approve two voluntary consensus methods (ASTM International D5673–03, and the Standard Methods (SM) Committee 3125) for compliance determinations of uranium in drinking water. Approval of these methods is in accordance with the goals of the NTTAA. EPA believes that ICP–MS analytical methods could be more cost-effective, less labor-intensive or more sensitive than some of the technologies previously approved in the December 2000 Radionuclides Rule. (65 FR 76708) This rule does not withdraw approval of any previously approved monitoring methods for uranium. Copies of both voluntary consensus methods are available for viewing at the docket facility identified in **ADDRESSES** section.

J. 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 August 25, 2004.

List of Subjects for 40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: August 18, 2004.

Michael O. Leavitt,
Administrator.

■ For the reasons set out in the preamble, title 40, chapter 1 of the Code of Federal Regulations is 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 141.25 is amended as follows:

- a. Revising the entry for uranium in the table at paragraph (a),
- b. Revising footnote 1 in the table at paragraph (a),
- c. Revising footnote 2 in the table at paragraph (a),
- d. Revising footnote 3 in the table at paragraph (a),
- e. Revising footnote 5 in the table at paragraph (a),
- f. Revising footnote 6 in the table at paragraph (a),
- g. Revising footnote 8 in the table at paragraph (a),
- h. Revising footnote 12 in the table at paragraph (a), and
- i. Adding footnote 13 in the table at paragraph (a).

§ 141.25 Analytical methods for radioactivity.

(a) * * *

Contaminant	Methodology	Reference (method or page number)							
		EPA ¹	EPA ²	EPA ³	EPA ⁴	SM ⁵	ASTM ⁶	USGS ⁷	DOE ⁸
Uranium ¹²	Radiochemical.	908.0				7500-U B			
	Fluorometric	908.1				7500-U C (17th Ed.).	D 2907-97	R-1180-76 R-1181-76.	U-04.
	ICP-MS	200.8 ¹³				3125	D 5673-03		
	Alpha spectrometry.			00-07	p 33	7500-UC (18th, 19th or 20th Ed.).	D 3972-97	R-1182-76	U-02.
	Laser Phosphorimetry.						D 5174-97		

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of documents 1 through 10 and 13 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800) 426-4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW., Room B135, 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.

¹ "Prescribed Procedures for the Measurement of Radioactivity in Drinking Water", EPA 600/4-80-032, August 1980. Available at the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (Telephone (800) 553-6847), PB 80-224744, except Method 200.8, "Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Revision 5.4, which is published in "Methods for the Determination of Metals in Environmental Samples—Supplement I," EPA 600-R-94-111, May 1994. Available at NTIS, PB95-125472.

² "Interim Radiochemical Methodology for Drinking Water", EPA 600/4-75-008 (revised), March 1976. Available at NTIS, *ibid.* PB 253258.

³ "Radiochemistry Procedures Manual", EPA 520/5-84-006, December, 1987. Available at NTIS, *ibid.* PB 84-215581.

⁴ "Radiochemical Analytical Procedures for Analysis of Environmental Samples", March 1979. Available at NTIS, *ibid.* EMSL LV 053917.

⁵ "Standard Methods for the Examination of Water and Wastewater", 13th, 17th, 18th, 19th Editions, or 20th edition, 1971, 1989, 1992, 1995, 1998. Available at American Public Health Association, 1015 Fifteenth Street NW., Washington, DC 20005. Methods 302, 303, 304, 305 and 306 are only in the 13th edition. Methods 7110B, 7500-Ra B, 7500-Ra C, 7500-Ra D, 7500-U B, 7500-Cs B, 7500-I B, 7500-I C, 7500-I D, 7500-Sr B, 7500-3H B are in the 17th, 18th, 19th and 20th editions. Method 7110 C is in the 18th, 19th and 20th editions. Method 7500-U C Fluorometric Uranium is only in the 17th Edition, and 7500-U C Alpha spectrometry is only in the 18th, 19th and 20th editions. Method 7120 is only in the 19th and 20th editions. Methods 302, 303, 304, 305 and 306 are only in the 13th edition. Method 3125 is only in the 20th edition.

⁶ *Annual Book of ASTM Standards*, Vol. 11.01 and 11.02, 1999; ASTM International any year containing the cited version of the method may be used. Copies of these two volumes and the 2003 version of D 5673-03 may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428-2959.

⁷ "Methods for Determination of Radioactive Substances in Water and Fluvial Sediments", Chapter A5 in Book 5 of *Techniques of Water-Resources Investigations of the United States Geological Survey*, 1977. Available at U.S. Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225-0425.

⁸ "EML Procedures Manual", 28th (1997) or 27th (1990) Editions, Volumes 1 and 2; either edition may be used. In the 27th Edition Method Ra-04 is listed as Ra-05 and Method Ga-01-R is listed as Sect. 4.5.2.3. Available at the Environmental Measurements Laboratory, U.S. Department of Energy (DOE), 376 Hudson Street, New York, NY 10014-3621.

¹² If uranium (U) is determined by mass, a 0.67 pCi/μg of uranium conversion factor must be used. This conversion factor is based on the 1:1 activity ratio of U-234 and U-238 that is characteristic of naturally occurring uranium.

¹³ "Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Revision 5.4, which is published in "Methods for the Determination of Metals in Environmental Samples—Supplement I," EPA 600-R-94-111, May 1994. Available at NTIS, PB 95-125472.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[OW-2003-0067; FRL-7805-6]

RIN 2040-AE62

Withdrawal of Direct Final Rule; National Primary Drinking Water Regulations: Analytical Method for Uranium

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA published a direct final rule on June 2, 2004 (69 FR 31008), concerning three additional analytical methods for compliance determinations of uranium in drinking water. EPA stated in the direct final rule that if the Agency received adverse comment by July 2, 2004, EPA would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received a somewhat ambiguous comment letter. EPA will address the comments in that letter in a final action based on the parallel proposal also published on June 2, 2004 (69 FR 31068). As stated in the parallel

proposal, we will not institute a second comment period on this action.

DATES: As of August 25, 2004, EPA withdraws the direct final rule published at 69 FR 31008 on June 2, 2004.

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