

Pre-publication Version

The EPA Administrator, Michael S. Regan, signed the following proposed rule on 3/27/2023, and EPA is submitting it for publication in the Federal Register (FR). While we have taken steps to ensure the accuracy of this Internet version of the proposed rule, it is not the official version of the proposed rule for purposes of public comment. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDsys website (<https://www.gpo.gov/fdsys/>). It will also appear on Regulations.gov (<https://www.regulations.gov/>) in Docket No. EPA-HQ-OW-2022-0260. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[EPA-HQ-OW-2022-0260; FRL-8464-02-OW]

RIN 2040-AG14

National Primary Drinking Water Regulations: Consumer Confidence Report Rule

Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Consumer Confidence Report (CCR) Rule in accordance with America's Water Infrastructure Act (AWIA) of 2018 (AWIA, 2018) and to require reporting of compliance monitoring data to EPA. The proposed revisions to improve the CCR would improve the readability, clarity, and understandability of CCRs as well as the accuracy of the information presented, improve risk communication in CCRs, incorporate electronic delivery options, provide supplemental information regarding lead levels and control efforts, and require systems who serve 10,000 or more persons to provide CCRs to customers biannually (twice per year). The proposed requirements for states to submit to EPA compliance monitoring data for all National Primary

Pre-publication Version

Drinking Water Regulations (NPDWRs) submitted by systems to the State would enhance EPA's oversight capabilities.

DATES: Comments must be received on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OW-2022-0260, by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. EPA-HQ-OW-2022-0260 for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets/>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Sarah Bradbury, Drinking Water Capacity and Compliance Division, Office of Ground Water and

Pre-publication Version

Drinking Water, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number (202) 564-3116; email address: bradbury.sarah@epa.gov.

For general information contact: EPA at OGWDWCCRrevisions@epa.gov or visit the agency's website at: <https://www.epa.gov/ccr/consumer-confidence-report-rule-revisions>, for general information about the Consumer Confidence Report Rule Revisions.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of “we,” “us,” or “our” is intended to refer to EPA. We use acronyms in this preamble. For reference purposes, EPA defines the following acronyms here:

ACS	American Community Survey
ALE	Action Level Exceedance
AWIA	America's Water Infrastructure Act
CCR	Consumer Confidence Report
CCT	Corrosion Control Treatment
CFR	Code of Federal Regulations
CMD	Compliance Monitoring Data
CWS	Community Water System
EJ	Environmental Justice
EPA	Environmental Protection Agency
GAO	Government Accountability Office
ICR	Information Collection Request
LCRR	Lead and Copper Rule Revisions
LEP	Limited English Proficiency

Pre-publication Version

LOE	Level of effort
LSL	Lead Service Line
MCL	Maximum Contaminant Level
NDWAC	National Drinking Water Advisory Council
NPDWR	National Primary Drinking Water Regulations
OMB	Office of Management and Budget
PN	Public Notification
ppb	Parts per billion
ppm	Parts per million
ppt	Parts per trillion
PRA	Paperwork Reduction Act
PWS	Public Water System
PWSS	Public Water System Supervision
RFA	Regulatory Flexibility Act
RTCR	Revised Total Coliform Rule
SBA	Small Business Administration
SDWA	Safe Drinking Water Act
SDWIS	Safe Drinking Water Information System
SISNOSE	Significant Economic Impact on a Substantial Number of Small Entities
UCMR	Unregulated Contaminant Monitoring Rule
UMRA	Unfunded Mandates Reform Act

Organization of this document. The information in this preamble is organized as follows:

I. General Information

Pre-publication Version

- A. Does this Action Apply to Me?
- B. What is the Agency's Authority for Taking this Action?
- C. What Action is the Agency Taking?
- D. Why is the Agency Taking this Action?

II. Background

- A. Overview of Consumer Confidence Report Rule
- B. Overview of Compliance Monitoring Data Requirements
- C. Consultations
- D. Other Stakeholder Engagement
- E. Supplementary Stakeholder Engagement

III. Discussion of Proposed Rule

- A. Purpose and Applicability
- B. Compliance Date
- C. Lead Notification and Corrosion Control Requirements
- D. Improving Readability, Clarity, Understandability
- E. Improving Accuracy and Risk Communication
- F. Report Delivery
- G. Compliance Monitoring Data (CMD)
- H. Special State Primacy Requirements and Rationale
- I. Housekeeping

IV. Request for Public Comment

- A. General Matters Concerning Consumer Confidence Reports
- B. Timing of Consumer Confidence Reports

Pre-publication Version

C. Increasing Readability, Clarity, and Understandability of the Consumer Confidence Report

D. Corrosion Control and Action Level Exceedances

E. General Matters Concerning CMD Requirements

V. Cost of the Rule

A. Estimates of the Total Annualized Cost of the Proposed Rule Revisions

B. Revisions to Consumer Confidence Report

C. Compliance Monitoring Data (CMD) Costs

D. Qualitative Benefits

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563

Improving Regulation and Regulatory Review

B. Paperwork Reduction Act

C. Regulatory Flexibility Act as Amended by the Small Business Regulatory Fairness Act

D. Unfunded Mandates Reform Act

E. Executive Order 13132: Federalism

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

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

Risks

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect

Energy Supply, Distribution or Use

I. National Technology Transfer and Advancement Act

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

VII. References

I. General Information

A. Does this Action Apply to Me?

Potentially regulated persons are Community Water Systems (CWSs).

Category	Example of potentially affected entities
CWSs	Community water systems (a public water system that (A) serves at least 15 service connections used by year-round residents of the area served by the system; or (B) regularly serves at least 25 year-round residents).
State and tribal agencies	Agencies responsible for drinking water regulatory development and enforcement.

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 this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 141.151 of the rule. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency’s Authority for Taking this Action?

Pre-publication Version

The statutory authority for this rule is the Safe Drinking Water Act, including Sections 1413, 1414, 1445, and 1450. Congress passed America’s Water Infrastructure Act (AWIA) into law on October 23, 2018, (Pub. L. 115-270 U.S. Congress, 2018) to improve drinking water and water quality, deepen infrastructure investments, enhance public health and quality of life, increase jobs, and bolster the economy. AWIA Section 2008 amended the Safe Drinking Water Act (SDWA) Section 1414(c)(4)(F) to require certain revisions to the Consumer Confidence Report Rule within 24 months of the date of enactment (i.e., by October 23, 2020). In response to a complaint filed by the Natural Resources Defense Council on January 19, 2021, and after public notice and the opportunity to comment, EPA entered into a consent decree that requires the agency to sign for publication in the *Federal Register* revisions to the consumer confidence report regulations no later than March 15, 2024, to comply with AWIA amendments to SDWA Section 1414(c)(4) (Docket no. EPA-HQ-OGC-2021-0753). This action proposes revisions to fulfill the rulemaking requirements of SDWA Section 1414(c)(4)(F).

EPA first promulgated regulations in 1998 to require CCRs after the 1996 SDWA amendments added requirements for water systems to provide annual reports to each customer of a water system on the level of contaminants in the drinking water and related information. These annual reports were part of the “Right to Know” provisions added to the statute in 1996 and designed to increase the amount of information made available by community water systems (CWS) to their consumers. Section 2008 of America’s Water Infrastructure Act of 2018 (Pub. L. 115-270) amended SDWA Section 1414(c)(4) on Consumer Confidence Reports by adding a new paragraph 1414(c)(4)(F). This new paragraph requires EPA to revise the 1998 Consumer Confidence Report regulations to increase the readability, clarity, and understandability of the information presented in the CCRs; increase the accuracy of information presented and risk

Pre-publication Version

communication in the CCRs; mandate report delivery at least biannually by systems serving 10,000 or more; and allow electronic delivery consistent with methods described in the memorandum *Safe Drinking Water Act-Consumer Confidence Report Rule Delivery Options* (USEPA, 2013) issued by the Environmental Protection Agency on January 3, 2013. The AWIA amendments also require CCRs to include information on corrosion control efforts and when corrective action to reduce lead levels throughout the system is required following a lead action level exceedance (ALE). As with the original Consumer Confidence Report Rule, the AWIA amendments direct that the revised regulations must be developed in consultation with public water systems, environmental groups, public interest groups, risk communication experts, the states, and other interested parties.

In addition, AWIA, Section 2011 - Improved Accuracy and Availability of Compliance Monitoring Data - amended Section 1414 of the Safe Drinking Water Act to add a new section, 1414(j). SDWA Section 1414(j) required EPA to provide to Congress a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with NPDWRs by October 23, 2019. These amendments directed EPA to evaluate challenges with ensuring the accuracy and integrity of submitted data, challenges encountered by states and water systems in implementing electronic submission of data, and challenges faced by users in accessing the data. EPA was further directed to include in its strategic plan a summary of findings and recommendations on practicable, cost-effective methods and means that can be employed to improve the accuracy and availability of submitted data. To meet this statutory requirement, EPA coordinated with states, Public Water Systems (PWSs), and other interested stakeholders to inform this effort. These discussions included staff from state drinking water programs, PWSs, and state laboratories, as well as staff from relevant EPA regions. Among other

findings, the plan identified a strategic need for EPA to obtain and evaluate monitoring data already collected by states (USEPA, 2022a). Compliance monitoring data (CMD) supports the agency's oversight responsibilities by providing a more complete picture of water quality and water system compliance than simple violation information.

Section 1445(a) of the Safe Drinking Water Act authorizes EPA to require any person (including water systems and States) subject to SDWA to make such reports as EPA may reasonably require by regulation to assist the agency in determining whether such person has acted or is acting in compliance with SDWA. Under Section 1413(a)(1)-(3) of SDWA, states with primary enforcement authority are required to adopt drinking water regulations no less stringent than NPDWRs, adopt and implement adequate procedures for the enforcement of those regulations, and keep records and make reports with respect to those activities as EPA may reasonably require by regulation. EPA is proposing that an annual collection of CMD is needed to improve the agency's oversight of SDWA compliance. EPA's and states' primary method of monitoring PWS compliance with the SDWA is the review and evaluation of results of water samples and operating reports collected by PWSs. Currently EPA receives information only on water system violations identified and reported by the state. This does not allow EPA to fully determine if the water system is in compliance with all of the necessary sampling and other actions required by regulation. As such, EPA is proposing that an annual collection of CMD is needed to assist the agency in oversight of SDWA compliance.

The proposal for annual reporting of CMD is also consistent with Government Accountability Office report (GAO-11-381) recommendations to routinely evaluate the quality of selected drinking water data on health-based and monitoring violations that states provide to EPA in order to improve EPA's ability to oversee the states' implementation of the SDWA and

provide Congress and the public with more complete and accurate information on compliance. A complete list of GAO recommendations can be found at: <https://www.gao.gov/assets/gao-11-381.pdf>. The annual reporting of CMD is also consistent with the Foundations for Evidence-Based Policymaking Act of 2018 (also called the Evidence Act), which directs all Federal agencies to build and use evidence to improve policy, program, operational, budget, and management decision-making. The collection of CMD will give a more complete and accurate depiction of water system compliance, which will improve the decisions EPA makes on oversight, enforcement, and training and technical assistance actions.

C. What Action is the Agency Taking?

Consistent with the statutory provisions and purposes described above, EPA is proposing a rule to (1) revise the Consumer Confidence Report regulations and (2) establish requirements for states, territories, and tribes with primacy to report CMD annually to EPA.

D. Why is the Agency Taking this Action?

In passing AWIA's amendments to the CCR provisions of SDWA, Congress reaffirmed that Americans have a right to know what is in their drinking water and where it comes from and highlighted a need for improvements to the annual consumer confidence reports to increase the readability, clarity, and understandability of the information, as well as the accuracy of the information presented and the risk communication. These proposed revisions would address those needs as well as require CCRs to include certain information about lead in drinking water. The proposed rule would also require CCRs to be distributed more frequently to customers of systems serving at least 10,000 persons. These efforts to improve right-to-know access align with decades of Congressional direction, including the priorities in the Bipartisan Infrastructure Law as well as EPA's Justice40 Initiatives to support small, disadvantaged or underserved

Pre-publication Version

communities, who are likely to have the most difficult time accessing and understanding information about their drinking water. This proposed rule would improve public health protection and further the goal of the 1996 SDWA “right-to-know” provisions by improving access to and clarity of drinking water data so that customers of community water systems can make informed decisions about their health and the health of their families.

EPA needs more robust CMD to better understand nationwide trends, evaluate specific issues at individual public water supply facilities, conduct the agency’s required oversight responsibilities, and provide effective compliance assistance. EPA’s current limited access to only quarterly and annual reports to the Administrator (40 CFR 142.15(a)) provides narrowly based information on system inventory, presence of violations, and other information. While EPA may ask for additional data from states on a case-by-case basis as part of the annual (or more frequent) file review conducted under 40 CFR 142.17, EPA does not receive CMD currently collected by all states for all NPDWRs. This means that EPA does not receive information necessary to identify national trends associated with contaminants. It also means that EPA is hindered in its attempts to identify and respond to issues at individual public water systems. Receiving the complete set of data for systems would allow EPA to identify trends nationally to evaluate and quantify the effectiveness of treatment methods, compliance with contaminant levels and other drinking water regulations, and water system operational issues. In turn, this data would help EPA more readily identify and respond to problems nationally and at specific systems that could pose a threat to public health. The complete set of CMD will provide ancillary benefits, including enabling a more comprehensive approach to identifying infrastructure needs, and informing how EPA and states can work together to deliver technical and funding assistance to water systems in a manner that more effectively addresses underlying

technical, managerial, and financial capacity-building needs. This information will also allow the agency to identify trends both geographically and demographically, which will improve transparency and accountability, and amplify best practices that maximize direct benefits in these communities. Therefore, EPA is proposing a new regulatory requirement pursuant to Section 1445(a)(1)(A) and Section 1413(a)(3) of the SDWA requiring all states to submit CMD to EPA for all NPDWRs annually. EPA's proposed action will not require any additional data collection by water systems or primacy agencies, as water systems have been collecting and reporting CMD to primacy agencies for all NPDWRs for decades.

II. Background

A. Overview of Consumer Confidence Report Rule

CCRs are a centerpiece of the public right-to-know provisions in SDWA. The information contained in CCRs can raise consumers' awareness of where their water comes from, help them understand the process by which safe drinking water is delivered to their homes, and educate them about the importance of preventative measures, such as source water protection, that ensure a safe drinking water supply. CCRs can promote a dialogue between consumers and their drinking water utilities, can encourage consumers to become more involved in decisions which may affect their health, and may allow consumers to make more informed decisions about their drinking water. CCRs also reveal important drinking water information on source water assessments, health effects data, and the water system.

The SDWA Amendments of 1996 originally created Section 1414(c)(4), which required community water systems to provide annual CCRs to their customers with the goal to better protect health of consumers by providing a detailed report on the state of their drinking water supply. EPA promulgated the Consumer Confidence Report Rule in August 1998 and the rule

established content and delivery requirements for community water systems (USEPA, 1998). CCRs must include information on the water system; sources of water; definitions of key terms; detected contaminants; the presence of *Cryptosporidium*, radon, and other contaminants; compliance with the National Primary Drinking Water Regulations; variances and exemptions; and additional required information. Systems are required to deliver the reports annually by July 1st through mail or other direct delivery methods. As described in Section 1414(c)(4)(C) of SDWA and EPA’s implementing regulations at 141.155(g), community water systems serving less than 10,000 people may obtain a waiver from the requirement to mail or otherwise directly deliver the CCR to each customer; such systems must meet requirements to provide notice of and access to the CCR in other ways.

Since the original CCR Rule was promulgated in 1998, the most significant update was to clarify the CCR regulations regarding electronic delivery in a policy memorandum that responded to Executive Order (EO) 13563 (2011). The EO charged each Federal agency to “develop a plan under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency’s regulatory program more effective or less burdensome in achieving the regulatory objectives.” EPA identified the Consumer Confidence Report Rule as one of the regulations to “explore ways to promote greater transparency and public participation in protecting the Nation’s drinking water in keeping with EO 13563’s directive to promote participation and the open exchange of information.” Stakeholders noted that there had been an increase in the number and type of communication tools available since 1998 when the Consumer Confidence Report Rule was promulgated. In 2013, EPA released an interpretive memorandum, *Safe Drinking Water Act – Consumer Confidence Report Rule*

Delivery Options, along with an attachment entitled *Consumer Confidence Report Electronic Delivery Options and Considerations* (USEPA, 2013). The memorandum describes approaches and methods for electronic delivery that are consistent with the existing Consumer Confidence Report Rule requirement to “mail or otherwise directly deliver” a copy of the report to each customer and consistent with providing flexibility for alternative forms of communication.

B. Overview of Compliance Monitoring Data Requirements

Under SDWA, EPA authorizes states, Territories and Tribes for primary enforcement responsibility or “primacy” for public water systems. Public water systems are subject to primary drinking water regulations which include monitoring requirements to ensure compliance with those regulations. Under 40 CFR 142.14, states, territories, and tribes with primacy are required to maintain records, including CMD from these water systems to demonstrate compliance with NPDWRs. EPA currently requires states to submit quarterly and annual reports to the Administrator (40 CFR 142.15(a)). These reports are limited in scope and provide system inventory, violations, and other information. Under 40 CFR 142.17, EPA is required to review at least annually the compliance of the state, territory, or tribe with the regulatory requirements for primacy in 40 CFR part 142, which includes adoption and implementation of adequate procedures for enforcement of drinking water regulations, including the requirements for systems to conduct monitoring and collect data.

Compliance and public health protection rely on accurate and complete data. EPA’s Drinking Water Compliance Monitoring Data Strategic Plan describes that EPA needs CMD to ensure data quality and national consistency in SDWA implementation, in addition to supporting informed decision making. EPA and other primacy agencies need data of known and documented quality and completeness to identify national trends, understand the effectiveness of

different treatment methodologies, develop effective and appropriate policy decisions, understand operational issues, and provide appropriate training and technical assistance. Accurate and timely monitoring data is critical to EPA's effective oversight of public water systems and primacy agencies.

Currently there is no national access to drinking water compliance monitoring data. Following the collection of CMD from primacy agencies, and in line with the action plan of the CMD Strategic Plan, EPA intends to make the CMD available to the public. Public access to drinking water data can empower communities to take necessary public health actions. Public access will also promote additional accountability for the water systems, which can lead to improved data quality and compliance.

C. Consultations

Section 1414(c)(4)(F)(i) of the SDWA requires the agency to consult with “public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties” in developing revisions to the Consumer Confidence Report Rule. EPA consulted with various stakeholders to solicit input on the proposed rulemaking.

1. Initial Tribal Consultation on Consumer Confidence Reports

EPA sought input from tribal governments from March 14, 2022, through June 14, 2022, to better inform the development of the proposed Consumer Confidence Report Rule Revisions (USEPA, 2022c). Upon initiation of consultation, consultation notification letters were emailed to the tribal leaders of all federally recognized tribes using the Bureau of Indian Affairs' Tribal Leaders Directory. The letters provided background information about the forthcoming rulemaking and the consultation and coordination plan.

EPA also hosted two informational webinars for tribal officials, which included the opportunity for participants to ask questions and provide feedback. Tribes were able to comment on any aspect of the forthcoming rulemaking, and EPA requested specific input from tribal governments on elements related to potential regulatory requirements of the proposed Consumer Confidence Report Rule Revisions and suggestions that would assist tribal governments in implementing and complying with the rule. EPA requested tribal input on the following questions.

- a. What concerns about your water do you look to be addressed in your water quality report?
- b. What challenges, if any, do you have when trying to read and/or understand your water quality report?
- c. What resources or tools are needed to support the creation of water quality reports?
- d. What is your preferred delivery format and method for receiving your water quality report?

2. Supplemental Tribal Consultation with Navajo Nation Indian Tribe

After the initial tribal consultation, the agency expanded the scope of the rulemaking to include a requirement for primacy agencies to submit comprehensive CMD annually to the agency. EPA offered supplemental consultation to the Navajo Nation as a primacy agency who could be affected by the expanded scope. No additional comments were received during the Supplemental Tribal Consultation period. Tribal consultation and coordination were conducted in accordance with EPA Policy on Consultation and Coordination with Indian Tribes (<https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>).

3. Federalism Consultation

On August 25, 2022, EPA initiated a 60-day Federalism consultation by hosting a meeting with members of state and local government associations and invited water utility associations. EPA presented background information on the proposed rule and sought feedback on key considerations for the rulemaking. EPA requested feedback on the content of reports delivered twice a year, support for communities with large proportions of non-English speaking populations, and the inclusion of annual collection of compliance monitoring data within the rulemaking. A summary of the CCR Rule Revisions federalism consultation and comments received is included with supporting materials in the docket (USEPA, 2022d).

D. Other Stakeholder Engagement

1. National Drinking Water Advisory Council Consultation on the Consumer Confidence Report Rule Revisions

EPA sought recommendations from the National Drinking Water Advisory Council (NDWAC or Council) in four key areas: addressing accessibility challenges, including translating CCRs and meeting Americans with Disabilities Act (ADA) requirements; advancing environmental justice and supporting underserved communities; improving readability, understandability, clarity, and accuracy of information and risk communication of CCRs; and CCR delivery manner and methods, including electronic delivery. EPA directed the NDWAC to establish a working group consisting of representatives of public water systems, environmental groups, public interest groups, risk communication experts, the states, and other interested parties to assist the Council.

The NDWAC's Consumer Confidence Report Rule Revisions working group consisted of twelve people from public water systems, environmental groups, public interest groups, and Federal, state, and tribal agencies. The working group included seven NDWAC members, and

Pre-publication Version

one member each from EPA's National Environmental Justice Advisory Council and Children's Health Protection Advisory Committee. The NDWAC working group held seventeen meetings to discuss the Consumer Confidence Report Rule Revisions that were open to the public. The working group heard presentations and received written public comments during the development of their recommendations to the NDWAC. Working group members also participated in a public meeting of the NDWAC, which included oral and written public comments, to discuss the working group's preliminary recommendations. The NDWAC working group provided its final recommendations to the NDWAC in November 2021. The NDWAC discussed the working group's final recommendations during a two-day public meeting of the Council on December 1-2, 2021. At that meeting, the NDWAC conducted deliberations on the working group's recommendations. The NDWAC provided EPA with its recommendations on December 14, 2021.

Materials from this NDWAC process, including the *Report of the Consumer Confidence Report Rule Revisions Working Group to the National Drinking Water Advisory Council*, and Letter to Administrator on CCR Rule Revision from the NDWAC are available in the docket at <https://www.epa.gov/system/files/documents/2022-02/ndwac-consumer-confidence-report-rule-revision-letter-december-2021.pdf> (NDWAC, 2021).

2. Targeted interviews

EPA conducted separate interviews with nine states, nine community water systems of varying sizes representing different regions, as well as a county health official (risk communication expert), a public interest group, and an environmental justice organization. The purpose of the interviews with states and water systems was to identify level of effort, costs, and burden associated with CCR development, delivery, and compliance, in addition to other issues

and challenges with implementing current rule provisions. The purpose of the interviews with the other organizations was to discuss experiences related to drinking water and/or CCRs, including concerns of their members, outreach and communication strategies, translations, and any other challenges they experience. A summary of the interviews is included with supporting materials in the docket (USEPA, 2022f).

3. Virtual Public Listening Session

On April 26, 2022, EPA hosted a virtual public listening session. During the session, EPA provided a brief introduction/overview of the project and purpose, and allowed registered attendees to provide input on 6 topics:

- a. Tools that address challenges to developing CCRs.
- b. CCR delivery methods, including electronic delivery options.
- c. Considerations and concerns related to underserved communities and environmental justice.
- d. Biannual delivery, including timing and content of reports.
- e. CCR accessibility challenges and solutions.
- f. Improving readability, clarity, understandability, accuracy, and risk communication of the information presented in CCRs.

EPA announced the listening session in the *Federal Register* (87 FR 23861, April 21, 2022) and held a 30-day comment period from April 23, 2022, through May 23, 2022. A summary of the verbal comments received during the listening session is available in the Docket.

E. Supplementary Stakeholder Engagement

The agency issued the final Lead and Copper Rule Revisions (Docket ID EPA-HQ-OW-2017-0300) on January 15, 2021. On January 20, 2021, President Biden issued the “Executive

Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” (86 FR 7037, January 25, 2021) (“Executive Order 13990”). Section 1 of EO 13990 states that it is “the policy of the Administration to listen to the science, to improve public health and protect our environment, to ensure access to clean air and water, . . . and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.” EO 13990 directed the heads of all Federal agencies to immediately review regulations that may be inconsistent with, or present obstacles to, the policy it establishes. In accordance with EO 13990, EPA reviewed the Lead and Copper Rule Revisions (LCRR) to engage meaningfully with the public regarding this important public health regulation before it took effect. As part of EPA’s commitment to Environmental Justice, EPA specifically sought engagement with communities that have been disproportionately impacted by lead in drinking water, especially lower-income people and communities of color that have been underrepresented in past rule-making efforts. Feedback from those discussions related to CCRs and drinking water notifications were summarized and considered for this rulemaking (USEPA, 2021b).

III. Discussion of Proposed Rule

A. Purpose and Applicability

EPA is proposing to revise the requirements for the content of CCRs in accordance with the requirements set forth in Section 1414(c)(4) of SDWA and as authorized under Section 1445(a)(1) and Section 1413(a)(3) to require states, territories, and tribes with primary enforcement responsibility to provide EPA compliance monitoring data on an annual basis. This proposal revises 40 CFR part 141 subpart O and 40 CFR part 142. The proposed changes to 40 CFR part 141 apply to existing and new CWSs. A CWS is a public water system that serves at

Pre-publication Version

least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. EPA considers a year-round resident to mean an individual whose primary residence is served by the water system, even if they may not live at the residence 365 days a year (USEPA, 1991). Out of the approximately 155,000 public water systems in the United States, about a third – approximately 49,000 – are considered CWSs. These systems range from large municipal systems that serve millions of consumers to small systems that serve fewer than 100 consumers. The balance of the water systems in the United States, or approximately 106,000 systems, are either transient non-community systems, which do not serve the same people on a day-to-day basis (for example, highway rest stops), or non-transient non-community systems, which serve at least 25 of the same people at least 6 months of the year (for example, schools). Because this proposed rule applies only to CWSs, as provided by Congress in the 1996 Amendments to SDWA, transient and non-transient non-community systems are not affected by this proposed rule.

EPA notes that many water wholesalers are also considered CWSs. If such a system does not retail water to any customer, i.e., billing unit or drinking water hook-up, the system will not have to prepare and submit a CCR. However, these systems will have to provide the relevant information to the purchaser, also known as a consecutive system, so that the purchaser can prepare a CCR and provide it to their customers.

States, tribes, and territories with primary enforcement responsibility, also called “primacy,” are those that have been authorized by EPA to implement the NPDWRs and associated requirements in their state or territory. Currently, all states and territories except Wyoming and the District of Columbia have primacy. The Navajo Nation is the only Indian tribe to have primacy. EPA is proposing that states, territories, and Tribes with primacy be required to report

Pre-publication Version

comprehensive compliance monitoring data to EPA on an annual basis. This proposed rule would not change existing reporting requirements for public water systems to report compliance data to their primacy agency.

B. Compliance Date

EPA is required by the Consent Decree to sign for publication “revisions” to the consumer confidence report regulation not later than March 15, 2024. EPA is proposing to require compliance with the CCR Rule Revisions beginning approximately one year after promulgation of the rule (effective 30 days after publication of the final rule in the *Federal Register*). EPA expects that beginning April 1, 2025, CWSs would have to comply with the new CCR content and delivery requirements in 40 CFR 141.151 through 141.156. Since CWSs have been preparing and delivering CCRs for over 20 years, EPA anticipates systems should be able to meet the additional content and delivery requirements by 2025. CWSs would need to continue to comply with 40 CFR 141.151 through 141.155, as codified in 40 CFR part 141, subpart O on July 1, 2023, until the compliance date of the new regulations. EPA is requesting comments on CCR compliance dates in Section IV of this preamble.

EPA is also proposing that the requirement for primacy agencies to report compliance monitoring data to EPA take effect in the CFR 30 days after publication of the final rule in the *Federal Register* in 2024 and primacy agencies would be required to comply with requirements for annual compliance monitoring data reporting to EPA beginning one year after the effective date in 2025. Primacy agencies already are receiving CMD from all water systems regulated by the Public Water System Supervision (PWSS) program under § 142.14. Prior to the compliance date, EPA anticipates it will develop the database to maintain the collected data and provide a CMD extraction and sharing tool for primacy agencies that use the Safe Drinking Water

Information System State (SDWIS State) and a database extract option for the primacy agencies that do not use SDWIS State. The agency believes the proposed compliance date for CMD reporting is practicable because these extraction tools are easy to use and familiar to many primacy agencies who currently use similar extraction tools to provide their data to the agency, for example under the 6-year review program.

C. Lead Notification and Corrosion Control Requirements

AWIA of 2018 amended Section 1414(c)(4)(B)(iv) and (vii) to require the information in CCRs on compliance with NPDWRs to include information on “corrosion control efforts” and identification of any lead action level exceedance (ALE) for which corrective action has been required during the monitoring period covered by the CCR.

Currently there are an estimated 6.3 to 9.3 million homes served by lead service lines (LSLs) in thousands of communities nationwide, in addition to millions of older buildings with lead solder, and brass/bronze fittings and faucets. Corrosion control treatment (CCT) involves changing water quality characteristics including alkalinity, pH, and dissolved inorganic carbon or involves the addition of a corrosion inhibitor such as orthophosphate to reduce the rate of metal release into the water. The type of corrosion control efforts implemented by individual systems vary based on several factors, including the applicable requirements of EPA’s regulations to control lead and copper. Besides CCT, systems also use other approaches to protect consumers from exposure to lead and copper, such as establishing a monitoring plan for lead, copper, and water quality parameters; treating source water for lead and copper; following state approved treatment methods of the source water; and/or replacing lead service lines (LSL). Lead and copper enter drinking water mainly from the corrosion of the pipes, fittings, and fixtures in the water distribution system, including premise plumbing. EPA is proposing to require CWSs to

Pre-publication Version

describe their corrosion control and other efforts such as studies conducted to identify corrosion control treatments, application of corrosion control technologies, as well as regular water quality monitoring conducted to ensure effective implementation of the corrosion control treatment strategy. EPA is proposing to add to the CCR the following definition for corrosion control efforts: *Treatment (including pH adjustment, alkalinity adjustment, or corrosion inhibitor addition) or other efforts contributing to the control of the corrosivity of water, e.g., monitoring to assess the corrosivity of water.*

Rather than prescribing specific language to describe corrosion control efforts, EPA is proposing in the CCR Rule Revisions that systems develop their own statement to describe their corrosion control efforts. In Section IV of this preamble, EPA is requesting comments on whether the CCR Rule should instead include prescribed language.

As part of the LCRR (USEPA, 2021c), EPA revised the Consumer Confidence Report Rule to require CWSs to report the range of tap sample lead results in addition to the currently required 90th percentile lead concentration and the number of samples that are greater than the lead action level for each monitoring period. Systems are required to comply with the new LCRR CCR requirements beginning in reports delivered in 2025. In addition to including information on tap samples that exceed the lead action level, this rule proposes that the CCRs include details about what corrective actions are or were taken by systems to address an action level exceedance. Under the currently effective LCRR, following an ALE, systems must perform follow-up actions, including installing or re-optimizing corrosion control treatment, providing public education, and conducting lead service line replacement to address elevated levels of lead. The proposed changes to the CCR rule would require systems to clearly identify in their CCR that they have an ALE and describe in their CCR the follow-up or corrective actions they have

taken or will take. While the LCRR took effect on December 16, 2021, and compliance is currently required beginning on October 16, 2024, the reporting on availability of tap sample lead results, and the status of service line inventory will not be required in the CCR until the first report required in calendar year 2025. This coincides with the proposed compliance date for this proposed rule. The proposed Revised CCR Rule adds a requirement for systems to include a link to their lead service line inventory if it is available on a publicly accessible website.

D. Improving Readability, Clarity, Understandability

Consumer confidence reports contain a great deal of highly technical information. In amending SDWA 1414(c)(4), Congress directed EPA to revise the regulations to increase the readability, clarity, and understandability of the information in the CCRs and to increase the accuracy of information presented, and risk communication. EPA interprets this statutory directive as setting a goal to make CCRs easier for every American to understand so that they may make informed decisions about their health and any risks associated with their drinking water. This proposed rule would meet that goal and improve the readability, clarity, and understandability of CCRs by revising the current mandatory and prescribed language in § 141.153 *Content of the reports* and § 141.154 *Required additional health information*. The proposed rule would ensure clear and simple messaging that will streamline the report, focusing on information that is most useful to consumers. EPA is including new definitions to include in the reports as applicable, including definitions for “*corrosion control efforts*,” *parts per million (PPM)*, *parts per billion (PPB)*, *parts trillion (PPT)*, *pesticide*, and *herbicide*. Systems may use alternate definitions for PPM, PPB, PPT, pesticide and herbicide, if the system obtains written approval from the state to use alternate definitions. EPA is also proposing the following approaches to improve the readability, clarity, and understandability of the information presented

in the reports: requiring each CCR to include a summary of key information at the beginning of the report; allowing water systems additional flexibility in presenting contaminant data; and supporting meaningful access to communities with limited English proficiency (LEP).

1. Report summary

CCRs provide a valuable communication opportunity for the community water systems to provide information to consumers. As a result, in some cases, reports can be quite lengthy. During EPA's Retrospective Review, feedback from stakeholders recommended that reports should include an at-a-glance summary to improve understandability of reports (USEPA, 2012). The NDWAC expanded on this idea in recommending that CCRs include a summary page to convey important information and key messages in a simple, clear, and concise manner at the beginning of the report (NDWAC, 2021).

EPA agrees with these stakeholder recommendations, and this proposed rule proposes to add § 141.156 that requires the inclusion of a summary at the beginning of each CCR. At a minimum, systems would need to include a summary of violations and ALEs, information on how consumers can contact the system to receive additional information, and, if applicable, information on how consumers can receive assistance with accessibility needs, such as translating the report into other languages, and a statement identifying that public notifications (PN) of violations or other situations are delivered with the CCR, as allowed in 40 CFR part 141, subpart Q. Systems that include PNs in the CCRs often place them at the end of the report, which may be overlooked by consumers. Including a statement in the summary about PNs in the report will help consumers find important information about violations that may or may not be included in the CCR itself, for example, if the violation occurred outside of the CCR reporting period. This summary should, as much as possible, be accessible and understandable to the public. The

Pre-publication Version

proposed rule allows systems the flexibility to present the information as an infographic to improve clarity and understandability. EPA believes that a summary included at the beginning of the reports will allow consumers to quickly view key information and may lead to more people engaging with the reports. EPA is requesting comments on requirements for the summary in Section IV of this preamble.

2. Contaminant data section

The original Consumer Confidence Report Rule required that data for detected contaminants subject to mandatory monitoring be displayed in one or more tables. EPA's intent was to make the presentation of the data as consumer friendly as possible, while providing sufficient flexibility so that reports can be improved based on feedback from customers (USEPA, 1998). Since then, advances in technology and graphics have allowed data to be presented in clearer and more understandable ways using readily available software.

EPA is proposing to allow water systems flexibility in formatting contaminant data to present the information in a more readable and understandable format. During EPA's consultations on this proposal, stakeholders identified the use of infographics to display information as one way to help improve understandability of technical concepts in the reports. To reflect this change, EPA is proposing to replace "contaminant data table(s)" with "contaminant data section." As proposed, § 141.153(d), would require water systems to display the contaminant data in logical groupings that would make it easier for consumers to read and understand the contaminant information. For example, this could include grouping contaminants by source type, contaminant type (inorganics, organics, disinfection byproducts (DBPs), etc.), or detection values, e.g., grouping contaminants that have detection values above half the MCL together. Water systems should not obfuscate or attempt to conceal the information by presenting contaminant data in

such a way that would make it difficult for consumers to read or understand; however, systems may continue to use one or more tables to display contaminant data. Despite allowing additional flexibility on how the information is presented, this proposed rule would not change the type of information on detected contaminants that systems need to report in § 141.153(d)(4), such as reporting the maximum contaminant level, maximum contaminant level goal, the highest contaminant level used to determine compliance with a National Primary Drinking Water Regulation, and the range of detected levels for each detected contaminant.

3. Explaining Unregulated Contaminant Monitoring Results in CCRs

The 1996 SDWA amendments require that once every five years EPA issue a new list of no more than 30 unregulated contaminants to be monitored by PWSs. EPA uses the Unregulated Contaminant Monitoring Rule (UCMR) to collect data for contaminants that are suspected to be present in drinking water and do not have health-based standards set under SDWA. The monitoring provides EPA and other interested parties with nationally representative data on the occurrence of contaminants in drinking water, the number of people potentially being exposed, and an estimate of the levels of that exposure. This data can support future regulatory determinations and other actions to protect public health and the environment.

Community water systems are required to report detected UCMR monitoring results in CCRs. According to § 141.153(d)(7), systems must present the average and range of contaminants for which monitoring is required under § 141.40. In this proposed rule, systems will be required to include a brief explanation of the reasons for monitoring for unregulated contaminants such as, “*Unregulated contaminant monitoring helps EPA to determine where*

certain contaminants occur and whether the Agency should consider regulating those contaminants in the future.” As proposed, § 141.153(d)(7) would allow a water system to write its own educational statement, but only with approval of the Primacy Agency. This will improve understandability for consumers by ensuring that systems explain the UCMR results.

4. Translation Support for Limited English Proficient Persons and Accessibility Considerations

In 2019, an estimated 22 percent of people in the United States (68 million people) spoke a language other than English in the home, and 8.3 percent of people in the United States (25 million people) were considered to have limited English proficiency (U.S. Census Bureau, 2021b). According to the American Community Survey (ACS), this is equivalent to approximately 23 million American households. Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English are considered Limited English Proficient, or "LEP." Limited English proficiency can be a barrier to accessing important benefits, services, or information. CCRs are valuable tools to inform consumers and to allow them to make informed decisions about the health and safety of their drinking water. If LEP consumers are not able to read and understand the reports, or have sufficient access to that information, it raises equity concerns that some communities may not have as complete an understanding about the quality of their drinking water as more proficient English-speaking consumers.

To support implementation of Title VI regulations (40 CFR part 7) EPA has specified that “recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services” (EPA, 2004). States that EPA has authorized for primary enforcement responsibility (primacy) for the PWSS

Pre-publication Version

Programs are eligible to receive grants to assist with developing and implementing their PWSS program. Currently, all states and territories (except Wyoming and the District of Columbia), and the Navajo Nation have primacy. In Fiscal Year 2021 (FY21) and 2022 (FY22), each of those primacy agencies received PWSS grant funds (USEPA, 2021a and 2022h).

EPA is proposing to revise 40 CFR 141.153(h)(3) to require primacy agencies to assist water systems in providing meaningful access to CCRs for LEP consumers in a manner consistent with the Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, which can be found at:

<https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi> (EPA Title VI

Guidance)(2004). As part of their primacy application or revision, states, territories, and tribes will need to include a description of how they intend to provide timely support to LEP drinking water consumers that need assistance with translation services. In communities with a large proportion of consumers with limited English proficiency (as determined by the primacy agency), systems will be required to include contact information to obtain a translated copy of the CCR or assistance in the appropriate language. For systems that have difficulty providing translation support, the primacy agencies are expected to provide contact information to assist LEP consumers. In addition, EPA is proposing to require that large community water systems serving 100,000 or more persons develop a plan describing how they intend to provide meaningful access to the LEP consumers they serve. These systems serve almost 50 percent of the population and several of these larger systems already provide translation resources to their consumers. All systems that receive Federal financial assistance are subject to the requirements

of Title VI to provide meaningful access to limited English proficient consumers. Large community water systems may use tools such as the latest census data for the area served, data from school systems, or data from community organizations or from state and local governments to help identify LEP populations in their service area. These systems will need to include with their annual delivery certifications to their primacy agencies that they have evaluated and updated the plan as necessary to meet community needs.

For primacy agencies and systems that are recipients of Federal funding, EPA's existing Title VI Guidance promotes balancing community needs with available resources and allows considerable flexibility in how CWSs provide meaningful access by applying a flexible and fact-dependent individualized assessment that balances the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs. Community Water Systems that serve LEP persons on an unpredictable or infrequent basis should use the above four-factor analysis to determine what to do if an LEP individual seeks translation support services from the relevant CWS. There are steps that the Federal government can take to help primacy agencies reduce the costs of language services without sacrificing meaningful access for LEP persons. EPA will consider opportunities to share tools, resources, and guidance, such as model notification plans, examples of best practices, and cost-saving approaches, with water systems, recipient states, and LEP consumers. EPA is requesting comment on how CWSs and primacy agencies can best provide meaningful access to LEP customers and what the timeline for providing translation services to LEP customers should look like.

In EPA's charge to the NDWAC, EPA sought advice and recommendations from the NDWAC on addressing accessibility challenges in the Consumer Confidence Report Rule Revision (NDWAC, 2021). The NDWAC recognized that the specific needs of communities served by water systems vary greatly from water system to water system. The NDWAC members recognized that water systems may have customers with unique needs with respect to accessibility. For example, some customers may need large font copies of the CCR. In this rule, EPA is proposing that systems must make a reasonable effort to meet the needs of consumers that request accessibility accommodations.

E. Improving Accuracy and Risk Communication

AWIA amended Section 1414 of the Safe Drinking Water Act to require EPA to revise the Consumer Confidence Report Rule to increase the accuracy of information and risk communication presented in the CCR. EPA is proposing to prohibit misleading statements by CWSs and improve risk communication by simplifying overly technical and confusing language.

1. Misleading statements

Even though tap water delivered by most community water systems meets the stringent national primary drinking water regulations, systems sometimes experience problems resulting in contamination or loss in pressure that impact water quality. In addition, drinking water that is not properly treated or that travels through an improperly maintained distribution system (pipes) may also create conditions that increase risk of contamination.

EPA is proposing to prohibit water systems from including false or misleading statements in their CCRs. CCRs are intended to provide consumers, especially those with special health needs, with information they can use to make informed decisions regarding their drinking water. To make informed decisions, consumers need accurate, nuanced reports. Feedback received during

the stakeholder engagement for this proposed rule indicated concern that some CCRs have misleading images and statements about the safety of the water that may not be supported by the contaminant data or other information in the reports. For example, stating the water is “safe” may not accurately reflect the safety of the water for sensitive populations, such as people with weakened immune systems, potential lead in drinking water exposure, or other inherent uncertainties and variabilities in the system, such as the potential presence of unregulated contaminants or fluctuation in water chemistry. EPA believes that consumers would benefit from messages tailored to the system and community to reflect local circumstances, that also acknowledge that water quality may fluctuate within the system, or may impact some populations differently, for example, children, immunocompromised, pregnant people, etc. The agency plans to support states and community water systems with tools and resources, such as templates and example language that improve risk communication without misleading consumers or undermining the public trust in drinking water.

2. Primacy Agency Approval for Revising Certain CCR Explanation

Consistent with the intent of the original CCR Rule, EPA believes that water systems should have the flexibility to tailor the information in their CCRs to reflect local circumstances. For the required additional health information on lead, arsenic, and nitrate in § 141.154, systems currently may write their own educational statements in consultation with their primacy agency. EPA is proposing to extend this type of flexibility to specific new definitions in § 141.153(c)(5) (i.e., *parts per million*, *parts per billion*, *parts per trillion*, *pesticide*, and *herbicide*); a new requirement for systems to include an explanatory statement with UCMR results in § 141.153(d)(7); and descriptions of assessments required under the Revised Total Coliform Rule (RTCR) in § 141.153(h)(7). To ensure consumers are receiving material that appropriately

reflects water quality and potential health risks, EPA is proposing that systems may use the language provided in the CCR Rule, or they may develop their own language, but they will need approval by the primacy agency.

3. Improving Risk Communication

AWIA Section 2008 (SDWA Section 1414(c)(4)(F)(i)(I)(bb)) requires EPA to revise the Consumer Confidence Report Rule to increase the risk communication in the reports. EPA has received general feedback from consumers during pre-proposal outreach that the CCRs can be confusing, overly technical, and in certain circumstances unnecessarily alarming to some readers.

The NDWAC also made several recommendations that EPA agrees would improve risk communication. Specifically, the NDWAC recommended revising, simplifying, and clarifying language in § 141.154. EPA is proposing revisions to § 141.154(b) and 141.154(c) as part of this proposed rule. Some of these recommendations from NDWAC, such as communicating numbers and standards, may be better addressed through implementation than through rulemaking because of the need for flexibility to address specific circumstances. For example, EPA can offer tools and resources to provide examples of analogies to better convey the meaning of concentrations and units, or infographics to communicate units of measurements and potential risk, that would be more meaningful to consumers. Implementation approaches such as these allow CWSs to select from a suite of potential examples rather than forcing all CWSs to use identical approaches that may not reflect the diversity of water systems and communities.

F. Report Delivery

AWIA section 2008 (SDWA Section 1414(c)(4)(F)(i)(II) and (F)(ii)) requires EPA to revise delivery frequency and format in the Consumer Confidence Report Rule Revisions. Systems serving more than 10,000 people will need to provide CCRs twice per year, or biannually. In

addition, by adopting the option of electronic CCR delivery, AWIA emphasizes the importance of continuing to find effective ways to keep the public informed (*See* 164 Cong. Rec. H8184, H8226 (daily ed. September 13, 2018)). In today's modern society, many people receive information through sharing from trusted sources. In this rule, EPA is proposing to incorporate standard distribution language, similar to requirements in § 141.205(d)(3) of the Public Notification Rule, to encourage broader distribution of the reports.

1. Biannual delivery

AWIA Section 2008 (SDWA Section 1414(c)(4)(F)(i)(II)) mandates that the Consumer Confidence Report Rule Revisions require community water systems serving 10,000 or more persons to provide CCRs to customers twice per year (biannually). This would affect slightly fewer than 5,000 water systems. A community water system that sells water (also known as a wholesaler) to another community water system (also known as a purchaser or consecutive system) that is required to provide reports biannually according to § 141.155 must provide the applicable information required by October 1, 2025, and annually thereafter, or a date mutually agreed upon by the seller and the purchaser, included in a contract between the parties. Systems currently are required to provide a CCR to each customer annually by July 1st of each year that contains information and data collected during the previous calendar year. EPA is proposing that systems serving 10,000 or more persons deliver a second CCR between July 2nd and December 31st of each year.

EPA is proposing that the report delivered by July 1st continue to contain information and data collected during the previous calendar year. The second report delivered by December 31st will include a 6-month update, if applicable, based on information and data collected between January 1st and June 30th of the current calendar year. EPA is proposing to allow a system

Pre-publication Version

without a violation or an ALE, or for which no new information is available for the six-month period between reports (i.e., information between January and June of the current year) to resend the original annual report (summarizing January through December of the previous calendar year). However, a system that has a violation, an ALE, or new information between January and June, such as newly available results for Unregulated Contaminant Monitoring Rule from the reporting year, will need to include this information in a 6-month update that accompanies the original annual report (summarizing January through December of the previous calendar year) they deliver between July 2nd and December 31st. Providing an update to reflect any new violations, ALEs, or information generated between January through June of the current year will provide consumers up-to-date information about the safety of their drinking water, without adding additional burden for most water systems.

EPA believes these changes will meet Congress' intent of providing critical updates on a timelier basis, while minimizing burden by only requiring a subset of community water systems to provide an update with the biannually delivered reports. EPA is requesting comments on delivery timing in Section IV of this preamble.

2. Electronic delivery

As part of the Consumer Confidence Report Rule Revisions, SDWA Section 1414(c)(4)(F)(ii) requires EPA to “allow delivery consistent with methods described in the memorandum “*Safe Drinking Water Act–Consumer Confidence Report Rule Delivery Options*” issued by the Environmental Protection Agency on January 3, 2013” (USEPA, 2013). In the House Report accompanying the AWIA 2018, the Committee on Energy and Commerce noted that Americans are increasingly moving away from a paper-driven society and instead relying on electronic technologies to access data, including real-time information; however, they also

recognized that “not all persons have access to or are comfortable using these means and [intend] that this new option not be used as an opportunity to avoid making paper copies available to those customers that want them.” H.R. Rep. No. 115-380, at 27 (2017).

These are not new concerns. In 2013, EPA issued the *Safe Drinking Water Act – Consumer Confidence Report Rule Delivery Options* memorandum to improve the effectiveness of communicating drinking water information to the public, while lowering the burden on community water systems and primacy agencies by taking advantage of these newer forms of communication. The memorandum includes an attachment entitled Consumer Confidence Report Electronic Delivery Options and Considerations (USEPA, 2013). The memorandum interprets the existing rule language “mail or otherwise directly deliver” to allow a variety of forms of delivery of the CCR, including electronic delivery, so long as the CWS is providing the report directly to each customer. The memorandum outlines a framework for what forms of electronic delivery are and are not acceptable under the original Consumer Confidence Report Rule.

In the Delivery Options policy memorandum, EPA identified two different approaches allowable under the current rule that a CWS could use in providing electronic delivery of CCRs to its bill-paying customers: 1) paper CCR delivery with a customer option to request an electronic CCR, or 2) electronic CCR delivery with a customer option to request a paper CCR. The memorandum also noted that community water systems should consider a combination of delivery methods for their CCRs based on available technology and the preferences of their customer base.

In § 141.155(a) of this proposed rule, consistent with statute, and the 2013 guidance and current practices, EPA is proposing to include options that allow community water systems to use electronic CCR delivery, with an option for customers to request a paper CCR. If a

Pre-publication Version

community water system is aware of a customer’s inability to receive a CCR by the chosen electronic means, it must provide the CCR by an alternative means. Consistent with the 2013 delivery options memo, EPA is proposing that systems may mail a paper copy of the report; mail a notification that the report is available on a website via a direct link; or email a direct link or electronic version of the report. When the community water system chooses to provide a link to the report, the notification must prominently display the link and include an explanation of the nature of the link. Links for CCRs must be active at time of delivery to prevent confusing customers. Systems that use a webpage to convey the CCR must include all the required information in §§ 141.153, 141.154, and 141.156 so that the customer does not have to navigate to another webpage to find any required CCR content. This proposed rule also incorporates the NDWAC’s recommendation to require systems that post their CCR on a publicly accessible website to maintain a report on the website for three years following its issuance. This is consistent with existing record keeping requirements for community water systems in §141.155(h).

While EPA encourages systems to use multiple outreach methods to enhance “good faith delivery” of the reports to consumers who do not get water bills, the use of social media directed at bill-paying customers would not meet the requirement to “directly deliver” the report since these are membership internet outlets and would require a customer to join the website to read their CCR. The use of automated phone calls (e.g., emergency telephone notification systems) to distribute CCRs is not considered direct delivery, because the entire content of the CCR cannot be provided in the telephone call.

3. Good faith delivery

Pre-publication Version

The proposed rule incorporates the NDWAC's recommendations by expanding examples of "good faith" delivery methods to include mailing postcards to service addresses and/or postal addresses, holding public forums, sending alert text messages with a link to the CCR to interested consumers, and using a "Quick Response" code, also known as a QR code, or equivalent in posting materials. A QR code is a type of bar code that may be read by an imaging device such as a smart phone's camera.

G. Compliance Monitoring Data (CMD)

Primacy agencies are required under § 142.14 to maintain records to determine compliance with NPDWRs, including monitoring data. EPA is proposing that primacy agencies report CMD to EPA annually. The CMD that primacy agencies would annually report to EPA under this proposed rule is data that primacy agencies are already receiving from all water systems regulated by the PWSS program under § 142.14.

The method of delivering the CMD to EPA is up to the primacy agency. To minimize the primacy agency reporting burden, the primacy agency could:

- 1) Use EPA's Safe Drinking Water Information System (SDWIS) State Data Extraction Tool
- 2) Submit a database extract and share data documentation

For the first method mentioned above, use of EPA's SDWIS State Data Extraction Tool, EPA currently provides states with a SDWIS Data Extraction Tool for state sharing of CMD with EPA for the Six-Year Review of Drinking Water Standards. For the 42 states that use SDWIS State, the Data Extraction Tool extracts CMD from the state's SDWIS State database and packages it in a file that can be submitted to EPA. Prior to the implementation date for annual CMD sharing, utilizing EPA-state workgroup requirements input and testing, EPA will

enhance the Data Extraction Tool to allow primacy agencies to automatically extract and submit the CMD to EPA that would be required under this rule.

For the second method mentioned above, primacy agencies could submit to EPA a database extract and share data documentation that describes the data structure and element definitions. EPA expects this method to be used by the eight states, five territories, and one tribe with PWSS program primacy that do not currently use SDWIS State.

H. Special State Primacy Requirements and Rationale

1. What are the requirements for primacy?

EPA's requirements for primacy include authority to require community water systems to provide CCRs. 40 CFR 142.10(b)(c)(vii). Each state, tribe or territory with primacy must submit complete and final requests for EPA approval of program revisions to adopt new or revised Federal regulations, such as this rule, no later than two years after the final rule is published in the *Federal Register*; primacy agencies may request an extension of up to two years in certain circumstances. 40 CFR 142.12(b). This section describes the proposed regulations and other procedures and policies that states would need to adopt, or have in place, to implement the Consumer Confidence Report Rule Revisions following publication of the final rule, while continuing to meet all other conditions of primacy in 40 CFR part 142.

2. What are the special primacy requirements?

As discussed in Section III.D.3 of this preamble, EPA is proposing to require states with primacy to provide meaningful access to CCRs for limited English proficiency (LEP) consumers, consistent with the Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (69 FR 35602, June 25,2004). As part of their primacy

Pre-publication Version

application in 142.16(f), states will need to include a description of how they intend to provide support for systems who are unable to provide the required translation assistance and LEP drinking water consumers that need translation assistance to meet the proposed requirements in 40 CFR 141.153(h)(6). Primacy agencies will also be required to maintain copies of translation support plans from large systems for 5 years. In addition, even though the mailing waiver is not a new requirement, EPA is proposing that states submit with their primacy application a description of how the state implements provisions in 40 CFR 141.155(g).

As discussed in Section III.H of this preamble, EPA is also proposing to require that states, territories, and tribes with primacy over PWSs submit all CMD collected from the PWSs. EPA proposes revisions to the primacy requirements for annual reporting to EPA by states (40 CFR 142.15) to include all monitoring and related data for determining compliance for existing NPDWRs that is required by 40 CFR part 141 to be reported from a water system to the state to demonstrate compliance with national primary drinking water regulations.

I. Housekeeping

As part of the Consumer Confidence Report Rule Revisions, EPA is proposing minor technical corrections within subsections of 40 CFR part 141, subpart O – Consumer Confidence Reports, described below:

- 40 CFR 141.152 Effective dates

EPA proposes to revise language in *CFR 141.152 Effective dates*, by removing compliance dates which have passed or are no longer applicable.

- 40 CFR 141.153 Content of the reports

Pre-publication Version

EPA proposes to revise language in *CFR 141.153 Content of the reports*, by removing regulatory text that has been superseded by new or existing regulations and removing compliance dates which have passed or are no longer applicable.

- 40 CFR 141.154 Required additional health information

EPA proposes to revise language in *CFR 141.154 Required additional health information*, by removing regulatory text that has been superseded by new or existing regulations and removing compliance dates which have passed or are no longer applicable.

The minor technical corrections being proposed in this rule will ensure consistency between the Consumer Confidence Report Rule Revisions and existing EPA drinking water regulations. EPA is not creating any new obligations with these technical corrections.

IV. Request for Public Comment

EPA is requesting comments on all aspects of the proposed revisions described in this document. While all comments relevant to the Consumer Confidence Report Rule Revisions and CMD collection proposed in this document will be considered by EPA, comments on the following issues will be especially helpful to EPA in developing a final rule.

A. General Matters Concerning Consumer Confidence Reports

EPA is requesting comment on what information should be included in the CCR summary in 40 CFR 141.156. What specific additional information will increase the readability, clarity, and understandability of the reports? What information is most important to provide to consumers at the beginning of the reports, understanding that a summary may be the only information that some consumers read?

Pre-publication Version

EPA is requesting comment on how to increase accessibility to the CCR for consumers with specific needs and what challenges those consumers may face with the current and proposed delivery options in 40 CFR 141.155. Are there any best management practices on accessibility that EPA should require in the Consumer Confidence Report Rule Revisions? Are there additional state guidelines that EPA could consider in the Consumer Confidence Report Rule Revisions or in guidance to help states and systems increase accessibility?

Current regulations require that public water systems make a good faith effort to provide the CCR to non-bill paying customers in 40 CFR 155(b). EPA is requesting comment on how to improve delivery of the CCR to non-bill paying customers, such as apartment residents. Should EPA consider additional outreach requirements to enhance awareness for non-bill paying customers? Would a requirement for water systems to post information on social media or online list-serves increase consumers awareness of and access to CCRs?

EPA is requesting comment on the feasibility of lowering the threshold for systems that are required to post their CCR on the internet in 40 CFR 141.155(f). Currently community water systems that serve 100,000 customers or more are required to post their CCR on the internet. EPA is considering lowering that threshold to include systems that serve 75,000 or more customers, 50,000 or more customers, or a different threshold. EPA is also interested in better understanding what challenges this new requirement may pose to smaller public water systems.

EPA is requesting comment on the feasibility for systems and states with primary enforcement responsibility to implement the revised CCR Rule by the proposed compliance date in 2025. EPA recognizes that the revisions to improve the readability, understandability, and clarity of the CCRs is valuable to consumers. However, unlike when promulgating the original

Pre-publication Version

CCR rule, states have existing CCR regulations. Should EPA consider revising effective dates in § 141.152(a) as follows:

Community water systems in States with primacy for the public water system supervision (PWSS) program must comply with the requirements in this subpart no later than **[INSERT DATE TWO YEARS FOLLOWING PUBLICATION]** or on the date the State-adopted rule becomes effective, whichever comes first. Community water systems in jurisdictions where EPA directly implements the PWSS program must comply with the requirements in this subpart on April 1, 2025. Prior to these dates, public water systems must continue to comply with the CCR requirements in this subpart as codified on July 1, 2023.

B. Timing of Consumer Confidence Reports

EPA requests comment on the timing and the delivery dates proposed in the Consumer Confidence Report Rule Revisions in 40 CFR 141.155(j). Per the AWIA amendments, community water systems who serve 10,000 or more customers will be required to deliver the CCR biannually (twice per year). Should EPA require water systems to deliver the first report sooner in the year, for example by April 1st and deliver the second report by October 1st of each year, and why or why not? EPA is requesting comments on the feasibility of delivering the first report earlier in the year, such as by April 1st. Should the deadline to deliver the second report be 3 months or 6 months after delivering the first report, or some other length of time? Should EPA require that each report cover the previous 6 months, rather than provide an annual summary and why or why not? For systems serving less than 10,000 consumers, should the original delivery deadline (by July 1st) remain, or should the CCR delivery deadline be updated to reflect the first delivery deadline for large systems (serving 10,000 or more people), if revised from July 1st following consideration of public comments?

EPA is requesting comment on the proposed revisions to the time period during which community water systems must certify delivery of the CCR in 141.155(c). Currently water

systems must certify delivery of the CCR within 90 days of mailing the report, or by October 1st.

Would requiring water systems to certify delivery of the CCR at the same time the CCR is distributed create any benefits or challenges? Would requiring public water systems to certify delivery of the CCR within 10 days or 30 days of delivery create any benefits or challenges? Are there additional delivery certification dates EPA should consider?

C. Increasing Readability, Clarity, and Understandability of the Consumer Confidence Report

EPA is requesting comment on how to improve the readability, clarity, and understandability of the CCRs, especially with respect to how information on detected contaminants is presented in the CCR and any challenges community water systems face with presenting detected contaminants in 40 CFR 141.153. Are there revisions to the regulations that EPA could make that would allow for detected contaminants to be presented in a clearer and more concise manner?

EPA is requesting comment on how to improve the readability, clarity, and understandability of the information presented in 40 CFR 141.153(h)(1) that describes contaminants which may reasonably be expected to be found in drinking water, including bottled water. What revisions could EPA incorporate into the Consumer Confidence Report Rule Revisions that could make it easier for consumers to understand what contaminants may reasonably be expected to be present in drinking water, including bottled water, and what the health effects of those contaminants might be?

EPA is requesting comment on how to improve the readability, clarity, and understandability of the information required by the Consumer Confidence Report Rule Revisions in § 141.154 if a public water system detects arsenic at levels above half the maximum contaminant level (MCL), or 0.005 mg/L, but less than the MCL, (0.010 mg/L) and nitrate at levels above half the MCL, or

Pre-publication Version

5 mg/L, but less than the MCL of 10 mg/L. How can EPA revise these educational statements for nitrate and arsenic to improve the risk communication for consumers when detections are elevated, but do not exceed the MCL?

EPA is requesting comment on how primacy agencies can best provide meaningful access to Limited English Proficient (LEP) customers and consumers in 40 CFR 142.16. How can primacy agencies best provide translation support to LEP customers and consumers so that they can better understand the information presented in the CCR? Some ideas for primacy agencies to provide meaningful access to LEP customers and consumers include providing a translation support hotline or having staff that can provide translation services. Additionally, EPA is requesting comment on what the timeline for providing translation services to LEP customers should look like. How soon should a primacy agency be expected to provide translation services for CCRs to a LEP customer?

D. Corrosion Control and Action Level Exceedances

EPA is requesting comment on what information consumers would find most helpful in the CCR when a public water system identifies the actions being taken to address corrosion control efforts (40 CFR 141.153(h)(8)(iii)) or when a system is required to identify an action level exceedance (ALE) and describe any corrective actions the system has or will take (40 CFR 141.153(d)(8)). How can this information be presented so that consumers can understand what these actions will accomplish and why they're important? Should the regulation include either required or optional template language to identify an ALE? Example template language could be:

During the past year, our system exceeded the [lead or copper] action level, which means our system is taking corrective actions to minimize exposures to [lead or copper] in drinking water. Our system [include the following statements most relevant: is

Pre-publication Version

conducting a corrosion control study; is installing corrosion control treatment or re-optimizing its existing treatment; (is replacing or will replace) lead service lines (LSL); is monitoring source water quality to determine if source water treatment is necessary to reduce lead (and/or copper) levels at the water source; and/or is conducting public education, including on how to reduce your exposure to lead. There is no safe level of lead.].

Should the regulation include either required or optional template language to describe corrosion control efforts? Example template language could be:

To minimize exposures to lead and copper in drinking water, our system (include one or more as appropriate) [regularly monitors lead, copper and/or corrosion control-related parameters in drinking water at selected households to evaluate treatment effectiveness; regularly treats source water for lead and copper; follows state approved treatment methods of the source water; follows state approved corrosion control treatment methods; and/or is conducting a study to identify corrosion control treatments].

E. General Matters Concerning CMD Requirements

EPA would appreciate specific suggestions and comments on the following areas related to the proposed rule in 40 CFR 142.15 for annual EPA collection of compliance monitoring data from primacy agencies:

- 1) Methods for limiting burden on primacy agencies as a result of the proposed requirement to report CMD to EPA, and
- 2) EPA and primacy agency partnerships and roles for assuring high quality compliance monitoring data.

V. Cost of the Rule

A. Estimates of the Total Annualized Cost of the Proposed Rule Revisions

EPA estimates the total average annual cost of this action would be \$22.2 million. The estimated costs for the CCR Rule Revisions include those incurred by primacy agencies and community water systems. EPA categorized the costs into three categories: program costs, CCR production costs, and CMD reporting costs. EPA discusses the expected costs as well as

Pre-publication Version

documenting the assumptions and data sources used in preparation of this estimate in the Analysis of the Economic Impacts of the Proposed Consumer Confidence Reports Rule Revisions (USEPA, 2022e).

Estimated costs for the proposed CCR Rule Revision are heavily influenced by the following proposed requirements:

- CWSs serving 10,000 or more persons would provide two reports per year.
- All reports would include a report summary.
- Large systems serving 100,000 persons or more would be required to identify plans for providing meaningful access to the reports for consumers with limited English proficiency.
- All CWSs would provide new language explaining their corrosion control procedures and describe corrective actions they have taken to address any lead action level exceedances (ALE) that occurred in the system during the reporting year.
- Primacy agencies would report compliance monitoring data (CMD) to EPA.

Exhibit 1 of this preamble details the EPA estimated annual average national costs using a three and seven percent discount rate by major cost component. These numbers transform future anticipated costs associated with the proposed revised CCR rule requirements in the present value. The annualized cost for each category of cost, shown in Exhibit 1 is equal to the amortized present values of the costs in each category over the 25 years from the year of rule promulgation, 2024 to 2048.

Exhibit 1. Annualized Costs of Alternative Second Report Delivery Options at 3 and 7 Percent Discount Rate

Cost Component	Primacy Agencies	Community Water Systems	Total
3% Discount Rate			
Program Costs	\$2,935,450	\$202,008	\$3,137,458
CCR Cost	\$1,723,115	\$17,300,670	\$19,023,785
Compliance Monitoring	\$67,254	\$0	\$67,254
Total	\$4,725,819	\$17,502,679	\$22,228,497
7% Discount Rate			
Program Costs	\$2,837,294	\$285,213	\$3,122,507
CCR Cost	\$1,723,540	\$17,035,740	\$18,759,280
Compliance Monitoring	\$67,842	\$0	\$67,842
Total	\$4,628,677	\$17,320,953	\$21,949,630

Additional details regarding EPA’s cost assumptions and estimates can be found in the Draft Information Collection Request (ICR) (USEPA, 2022g), ICR Number 2764.01, which presents estimated cost and labor hours for the CCR Rule Revisions. Copies of the Draft ICR may be obtained from the EPA public docket for this proposed rule, under Docket ID No. EPA-HQ-OW-2022-0260.

B. Revisions to Consumer Confidence Report

1. Program and Administrative Costs

“Program costs” refers to the actions primacy agencies will take to adapt their respective CCR programs. They include upfront program costs associated with revising their program and applying for primacy as well as ongoing costs associated with program maintenance.

“Administrative” costs refer to CWS expenditures to prepare for the new CCR requirements. EPA estimates that upfront and ongoing program costs for primacy agencies and the upfront administrative costs to CWSs depend on the role the primacy agency plays in the CCR

development process. EPA grouped primacy agencies into three categories based on the level of support they provide in the development of CCRs.

2. Ongoing Program Cost Burden Estimation

After adopting the rule revision, primacy agencies, including EPA regions that have primacy for the PWSS program in Wyoming, District of Columbia, and American Indian PWSs, incur costs on an ongoing basis to administer the rule. In the case of the CCR Revisions, each primacy agency will collect and review data annually to determine which CWSs will have additional reporting requirements, i.e., biannual delivery and translation. EPA assumed that primacy agencies will not incur general program maintenance activities (such as ongoing staff training) because they already conduct those activities under the original rule. Similarly, EPA assumed ongoing administrative costs for CWSs will be zero because CWS already perform ongoing program administrative activities for the original CCR Rule.

3. Community Water System Administrative Costs

EPA assumed that CWSs will incur upfront administrative costs not directly related to the production of CCRs. These costs include reviewing training materials received from primacy agencies and training staff to produce CCRs in compliance with the rule revisions. EPA assumed ongoing administrative costs for CWSs will be zero because CWS already perform ongoing program administrative activities for the original CCR Rule. EPA assumed that upfront administrative costs for CWSs will depend on the level of assistance the primacy agency provides to CWSs in the development of their CCRs.

4. Costs to Revise the Consumer Confidence Report

The proposed rule will require CWSs incorporate new content requirements in their CCRs. EPA also estimated the costs for primacy agencies that provide support to CWS to comply with

Pre-publication Version

new CCR requirements. For purposes of cost modeling, “CCR production costs” refer to the burden that CWSs, and primacy agencies that support CWSs, would incur because of content changes and delivery changes to the CCR. These changes include:

- Costs of providing access to the CCR to populations with limited English proficiency
- Costs of developing a summary page for the CCR
- Costs of developing corrosion control language and descriptions of corrective actions following an ALE (if applicable) for the CCR
- Costs of providing a second CCR each year for CWSs serving 10,000 or more people

C. Compliance Monitoring Data (CMD) Costs

As part of the CCR revisions, EPA is proposing to collect CMD from primacy agencies on an annual basis. EPA estimated that the change will require updates to 66 “data systems” reporting CMD. These include data systems for 49 states, five territories, the Navajo Nation, nine direct implementation tribal programs (as EPA Regions), DC (as EPA Region 3), and Wyoming (as EPA Region 8). The cost estimate includes the upfront costs associated with setting up and running the software necessary to extract the CMD for the first time, and ongoing costs associated with subsequent data extraction and submittals.

To capture this difference more accurately in costs, EPA assigned reporting agencies to two data system categories:

- Reporting agencies that use SDWIS State: 48
- Reporting agencies that do not use SDWIS State: 18

1. Upfront Costs

Before adopting the CMD reporting provisions of the CCR Rule Revisions, reporting agencies must first adjust their existing programs to support its implementation or develop a new

program to do so. These upfront costs include staff training and setting up a reporting system. That is, reporting agencies that currently use SDWIS State will have a lower level of effort (LOE) burden than those that do not currently use SDWIS State.

2. Ongoing Costs

After adopting the CMD reporting provisions of the Consumer Confidence Report Rule Revisions, primacy agencies, including EPA regions that have primacy for the PWSS program in Wyoming, DC, and American Indian PWSs, will incur costs on an ongoing basis to report CMD to EPA. Specifically, each reporting agency will need resources to maintain their reporting systems.

D. Qualitative Benefits

The effects of the revisions to the CCR are difficult to quantify, however, EPA anticipated that the primary benefit of the proposed Revised CCR Rule is that the public will be more informed, given the following reasons: increased accessibility for Limited English proficiency consumers; improved readability by allowing CWSs the flexibility to present contaminant data in a more consumer-friendly format; enhanced clarity by including report summaries at the beginning of the report; improved accuracy by prohibiting false or misleading statements in their reports; expanded communication related to lead by including corrosion control efforts and corrective actions being taken following an action level exceedance (ALE); increased frequency of delivery by large systems; added delivery method options; and enhanced transparency for the public and EPA oversight as a result of collecting comprehensive CMD from primacy agencies.

Together, these changes will lead to better-informed consumers. A more informed public is better equipped to make decisions about their health, including when deciding whether to use

water filters or to use bottled water to bottle-feed infants. A more informed public may also be more likely to engage in the decision-making process with their local water system. When a drinking water consumer has more information and a better understanding, their confidence can increase, consequently building their trust in their CWS. This is especially critical given that many CWSs choose to use the CCRs as a communication piece with their consumers to inform them about other relevant issues for the system.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a non-significant regulatory action. EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, the Economic Analysis of the Proposed Consumer Confidence Report Rule Revisions, is available in the docket and is summarized in Section V of this preamble.

B. Paperwork Reduction Act

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The Information Collection Request (ICR) document that EPA prepared has been assigned the Agency's ICR number 2764.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The major information requirements concern public water system (PWS), primacy agency, and laboratory activities to implement the rule including recordkeeping and reporting requirements (i.e., the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings),

Pre-publication Version

providing training to state and PWS employees on EPA information collection tool, updating their monitoring data systems, and reviewing system monitoring data.

This ICR provides preliminary burden and cost estimates for the Consumer Confidence Report Rule Revisions and CMD collection.

Respondents/affected entities: The respondents/affected entities are community water systems and states.

Respondent's obligation to respond: Under this proposed rule the respondent's obligation to respond is mandatory. Section 1414(c)(4) requires "each community water system to mail, or provide by electronic means, to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system" Furthermore, section 1445(a)(1)(A) of the SDWA requires that "[e]very person who is subject to any requirement of this subchapter or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter" In addition, section 1413(a)(3) of the SDWA requires states to "keep such records and make such reports . . . as the Administrator may require by regulation."

Estimated number of respondents: Total respondents, as proposed, include 66 primacy agencies (50 states plus the District of Columbia, U.S. territories, EPA Regions conducting direct implementation of tribal primacy, and one tribal nation), 48,529 are CWSs, for a total of 48,595 respondents.

Frequency of response: The frequency of response varies across respondents and year of implementation. In the initial 3-year ICR period for the CCR Rule Revision, systems will

Pre-publication Version

continue to deliver reports annually until the proposed compliance date of 2025. Beginning in 2025, systems serving 10,000 or more people will be required to provide report biannually, or twice per year. Systems serving 100,000 or more will be required to submit a plan to provide meaningful access by July 1, 2025. Primacy agencies will be required to submit comprehensive compliance monitoring data to EPA beginning in 2025.

Total estimated burden: 331,967 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$22.2 million (per year), includes \$6.71 million annualized capital or operation & maintenance costs.

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.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this proposed rule. EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review – Open for Public Comments" or by using the search function. OMB must receive comments no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

C. Regulatory Flexibility Act as Amended by the Small Business Regulatory Fairness Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. For purposes of assessing the impacts of this proposed rule on

Pre-publication Version

small entities, EPA considered small entities to be PWSs serving 10,000 people or fewer. This is the threshold specified by Congress in the 1996 Amendments to the SDWA for small water system flexibility provisions. As required by the Regulatory Flexibility Act (RFA), EPA proposed using this alternative definition in the *Federal Register* (FR) (63 FR 7620, February 13, 1998), sought public comment, consulted with the Small Business Administration (SBA), and finalized the small water system threshold in the agency's Consumer Confidence Report regulation (63 FR 44524, August 19, 1998). As stated in that final rule, the alternative definition is applied to this proposed regulation.

There are approximately 45,000 small entities subject to the requirements of the proposed CCR Rule Revisions that serve fewer than 10,000 people.

The agency has determined that no small entities (zero percent) will experience an impact of greater than one percent of average annual revenues. Details of this analysis are presented in the Docket (EPA-HQ-OW-2022-0260).

D. Unfunded Mandates Reform Act

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes minimal enforceable duties on any state, local or tribal governments or the private sector.

Based on the cost estimates detailed in Section V of this preamble, EPA determined that compliance costs in any given year would be below the threshold set in UMRA, with maximum single-year costs of approximately \$22.2 million dollars. EPA has determined that this proposed rule contains a Federal mandate that would not 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.

Pre-publication Version

This rule will establish requirements that affect small community water systems. However, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because the regulation requires minimal expenditure of resources.

E. Executive Order 13132: Federalism

EPA has determined that this action will have minor 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.

EPA did conclude that this proposed rule may be of interest to states because it may impose direct compliance costs on public water systems and/or primacy agencies and the Federal government will not provide the funds necessary to pay those costs. As a result of this determination, EPA held a Federalism Consultation with state and local government and partnership originations on August 25, 2022, to allow them the opportunity to provide meaningful and timely input into its development. EPA invited the following national organizations representing state and local government and partnership organizations to participate in the consultation: the National Governors Association, National Association of Counties, National League of Cities, United States Conference of Mayors, National Conference of State Legislatures, Environmental Council of the States, Association of Metropolitan Water Agencies, American Water Works Association, Association of State Drinking Water Administrators, Association of Clean Water Administrators, Association of State and Territorial Health Officials, National Rural Water Association, National Water Resources Association, and Western States Water Council to request their input on this rulemaking.

In addition to input received during the meetings, EPA provided an opportunity to receive written input within 60 days after the initial meeting. A summary report of the views expressed during the Federalism consultation is available in the Docket.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. As described previously, the proposed CCR Rule Revision would apply to all CWS, and would require systems serving more than 10,000 people to provide reports biannually, or twice per year. Information in the SDWIS/Fed water system inventory indicates there are approximately 711 total tribal systems, including 19 large tribal CWSs (serving more than 10,001 customers). The rule would also impact a tribal government that has primary enforcement authority (primacy) for PWSs on tribal lands.

Consistent with EPA Policy on Consultation and Coordination with Indian Tribes (May 4, 2011), EPA consulted with Tribal officials during the development of this action to gain an understanding of Tribal views of potential revisions to specific areas of the Consumer Confidence Report Rule. The start of the initial tribal consultation and coordination period began on March 14, 2022, during which a tribal consultation notification letter was mailed to tribal leaders of federally recognized tribes. During the initial consultation period EPA hosted two identical national webinars with interested tribes on March 22, 2022, and April 7, 2022, to request input and provide rulemaking information to interested parties. The close of the initial consultation period and deadline for feedback and written comments to EPA was June 14, 2022. EPA received both verbal and written comments during the two informational webinars. A summary of

the CCR Rule Revisions tribal consultation and comments received is included with supporting materials in the docket (USEPA, 2022c).

Preceding the conclusion of the initial tribal consultation period, EPA began considering additional revisions to the forthcoming CCR Rule Revision that would expand the scope of the rule revision to include a requirement for primacy agencies to submit comprehensive CMD annually to the agency. However, this revision was not described during the initial consultation and coordination period. EPA identified the Navajo Nation as the lone tribal government with primacy and offered supplemental consultation and coordination with the Navajo Nation to discuss any potential impacts or concerns about how the Compliance Monitoring Data submission requirement would affect the Navajo Nation. All supplemental consultation and coordination processes were conducted in accordance with EPA Policy on Consultation and Coordination with Indian Tribes. The supplemental tribal consultation period was open from August 30, 2022, through October 14, 2022. EPA did not receive any additional comments on the proposed rule during the supplemental tribal consultation process.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The requirements in this proposed rule apply to potential health

risks to all consumers and vulnerable populations and are not targeted specifically to address a disproportionate risk to children.

However, EPA's Policy on Children's Health may apply to this action. The proposed revisions to the CCR Rule would continue to address risks to children from contaminants in drinking water by informing parents and guardians and will strengthen EPA oversight of public water systems by requiring the submittal of compliance monitoring data.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. The entities affected by this action do not, as a rule, generate power. This action does not regulate any aspect of energy distribution as the water systems and states, territories, and tribal agencies that are proposed to be regulated by this rule already have electrical service. As such, EPA does not anticipate that this rule will have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the agency is required to use voluntary consensus standards in its regulatory and procurement 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, business practices, etc.) which are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus

standards are not used by EPA, the Act requires the agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards. Because this proposal does not involve or require the use of any technical standards, EPA does not believe that this Act is applicable to this rule. Moreover, EPA is unaware of any voluntary consensus standards relevant to this rulemaking. Therefore, even if the Act were applicable to this kind of rulemaking, EPA does not believe that there are any “available or potentially applicable” voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

EPA believes that the human health or environmental conditions that exist prior to this action have the potential to result in disproportionate and adverse human health or environmental effects on people of color, low-income populations and/or Indigenous peoples. EPA believes that this action is likely to reduce existing disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples by increasing the availability of drinking water compliance data to the public, improving delivery options of CCRs for non-bill paying customers and improving the ability of limited English proficiency (LEP) customers to access translation support in order to understand the information in their reports. Improved access to critical information in CCRs can also encourage these consumers to become more involved in

decisions which may affect their health and promote dialogue between consumers and their drinking water utilities.

CCRs are communication tools used by water systems to provide consumers information about drinking water quality, including, but not limited to, detected contaminants and violations. In enacting AWIA of 2018, Congress recognized that EPA needed to improve the availability and understandability of information contained in CCRs. Members of many underserved communities may be renters, making them less likely to receive the same CCR information that bill-paying customers who own their homes receive through direct delivery. Based on 2021 Census information (U.S. Census Bureau, 2021a), households who rent are much more likely to be below the poverty level than households who own their homes. Often renters do not receive copies of the CCR, as these reports are often delivered by CWSs to the billing address on file for these communities, which is often a central management office or property owner. While these systems are required to make a “good faith effort” to deliver CCRs to non-bill paying customers, often times the reports are not distributed to all community members. At the NDWAC meeting on September 30, 2021, members specifically expressed their concern about non-bill paying customers not receiving the CCR (NDWAC, 2021).

EPA is considering options to expand the existing language in the rule at 40 CFR 144.155(b) for “good faith” delivery methods to include examples of more modern outreach efforts, such as social media options. EPA is also requesting comment in the rule on how to improve delivery of the CCR to non-bill paying customers and whether EPA should consider additional outreach requirements to enhance awareness for non-bill paying customers, such as requiring landlords to deliver postcards that alert them when CCRs are available.

In addition to CCRs being difficult for residents of some communities to access, they often contain technical language that may be particularly difficult for consumers with limited English proficiency (LEP) to understand. Based on 2021 data from the U.S. Census Bureau (U.S. Census Bureau, 2021b), people in limited English households (i.e., households where no one in the household age 14 and over speaks English only or speaks English “very well”) are roughly two times as likely to be people of color as people in all other households (i.e., households where at least one person in the household age 14 and over speaks English only or speaks English “very well.”). Limited English proficiency can be a barrier to accessing and understanding the information presented in CCRs. If LEP consumers are not able to read and understand the reports, or have sufficient access to that information, it raises equity concerns that some communities may not have as complete an understanding about the quality of their drinking water as more proficient English-speaking consumers. During an interview with a consumer protection organization, the participants noted that based on their experience, members with limited English proficiency that lived in manufactured housing communities had difficulties getting translation assistance with Consumer Confidence Reports. The statement in the CCR that suggest LEP consumers should speak to someone that can help, creates a burden on the consumer to seek out translation assistance (USEPA, 2022f). See proposed changes to support LEP consumers in Section III.D in the preamble.

In developing this proposal, EPA provided meaningful involvement by engaging with a variety of stakeholders to better understand and address environmental justice concerns. This included interviewing an environmental justice organization and a consumer protection organization (USEPA, 2022f). The NDWAC CCR Rule Revisions working group consisted of twelve people from public water systems, environmental groups, public interest groups, and

Pre-publication Version

Federal, state, and tribal agencies, including a member from EPA’s National Environmental Justice Advisory Council. EPA specifically sought engagement with communities that have been disproportionately impacted by lead in drinking water for the LCRR, especially lower-income people and communities of color that have been underrepresented in past rule-making efforts as part of EPA’s commitment to Environmental Justice. In considering revisions to the CCR Rule, EPA reviewed comments from those meetings related to notifications and CCRs, see Section III.E of this preamble for more information. Additional information on consultations and stakeholder engagement can be found in Section II. C through E of this preamble.

The information supporting this Executive Order review is contained in Section II. C. Consultations, Section II. D. Other Stakeholder Engagement, Section II. E. Supplementary Stakeholder Engagement, Section III. D. Improving Readability, Clarity, Understandability, and 3. Translation Support for Limited English Proficient Persons and Accessibility Considerations of this preamble.

VII. References

164 Cong. Rec. H8184 (daily ed. September 13, 2018) (statement of Rep. Dingell)
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List of Subjects

40 CFR Part 141

Environmental protection, Copper, Indians—lands, Intergovernmental relations, Lead, Lead service line, National Primary Drinking Water Regulation, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 142

Pre-publication Version

Environmental protection, Administrative practice and procedure, Copper, Indians—lands, Intergovernmental relations, Lead, Lead service line, National Primary Drinking Water Regulation, Reporting and recordkeeping requirements, Water supply

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR parts 141 and 142 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. Amend § 141.151 by:

- a. Revising paragraphs (a), (c), and (f); and
- b. Adding paragraph (g).

The revisions and additions read as follows:

§ 141.151 Purpose and applicability of this subpart.

(a) This subpart establishes the minimum requirements for the content of reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. This

Pre-publication Version

subpart also establishes minimum requirements large systems must include in plans to provide meaningful access to these reports for limited English-proficient consumers.

(c) For the purpose of this subpart, *customers* are defined as billing units or service connections to which water is delivered by a community water system. For the purposes of this subpart, *consumers* are defined as people served by the water system, including customers, and people that do not receive a bill.

(f) For purpose of this subpart, the term “primacy agency” refers to the State or tribal government entity that has jurisdiction over, and primary enforcement responsibility for, public water systems, even if that government does not have interim or final primary enforcement responsibility for this rule. Where the State or tribe does not have primary enforcement responsibility for public water systems, the term “primacy agency” refers to the appropriate EPA regional office.

(g) The reports must not contain false or misleading statements or representations.

3. Amend § 141.152 by:

- a. Revising paragraphs (a), (b), (c), and (d)(1);
- b. Removing the period at the end of paragraph (d)(2) and adding “; and” in its place; and
- c. Adding paragraph (d)(3).

The revisions and additions read as follows:

§ 141.152 Compliance dates.

(a) Between [EFFECTIVE DATE OF FINAL RULE], and [DATE 1 YEAR AFTER PUBLICATION DATE OF FINAL RULE], community water systems must comply with §§

Pre-publication Version

141.151 through 141.155, as codified in 40 CFR part 141, subpart O, on July 1, 2023. Beginning April 1, 2025, community water systems must comply with §§ 141.151 through 141.156.

(b) Each existing community water system must deliver reports according to § 141.155 by July 1 each year. Each report delivered by July 1 must contain data collected during the previous calendar year, or the most recent calendar year before the previous calendar year.

(c) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation.

(d) ***

(1) By April 1, 2025 and annually thereafter; or

(3) A community water system that sells water to another community water system that is required to provide reports biannually according to § 141.155(i) must provide the applicable information required in § 141.155(j) by October 1, 2025, to the buyer system, and annually thereafter, or a date mutually agreed upon by the seller and the purchaser, included in a contract between the parties.

4. Amend § 141.153 by:

- a. Revising paragraphs (a) and (b)(2);
- b. Adding paragraphs (c)(1)(iii) and (c)(3)(v);
- c. Revising paragraph (c)(4) introductory text;
- d. Adding paragraph (c)(5);
- e. Revising paragraphs (d)(1)(i) and (ii);
- f. Removing paragraph (d)(1)(iii);

Pre-publication Version

- g. Revising paragraphs (d)(2), (d)(3) introductory text, (d)(3)(i), (d)(4), (d)(4)(iii) and (iv), and (d)(4)(iv)(B);
- h. Removing paragraph (d)(4)(iv)(C);
- i. Removing and reserving paragraphs (d)(4)(vii) and (viii);
- j. Revising paragraphs (d)(4)(ix) and (x);
- k. Removing paragraphs (d)(4)(xi) and (xii);
- l. Revising paragraphs (d)(5), (6), and (7);
- m. Adding paragraph (d)(8);
- n. Revising paragraphs (e)(1) introductory text, (f) introductory text, (f)(2) and (3), (h)(1)(i), (h)(1)(ii) introductory text, (h)(1)(ii)(B) and (E), (h)(1)(iii) and (iv), (h)(2) and (3);
- o. Revising paragraphs (h)(6) introductory text, (h)(6)(i) introductory text, (h)(7) introductory text, (h)(7)(i) introductory text, (h)(7)(i)(A) through (C), (h)(7)(i)(D)(1), (h)(7)(ii) introductory text, (h)(7)(ii)(A) and (B), (h)(7)(ii)(C)(2), and (h)(7)(iii)(D); and
- p. Adding paragraph (h)(8).

The revisions and additions read as follows:

§ 141.153 Content of the reports.

(a) Each community water system must provide to its customers a report(s) that contains the information specified in this section, § 141.154, and include a summary as specified in § 141.156.

(b) ***

(2) If a source water assessment has been completed, the report must notify consumers of the availability of this information, the year it was completed or most recently updated, and the means to obtain it. In addition, systems are encouraged to highlight in the report significant

Pre-publication Version

sources of contamination in the source water area if they have readily available information.

Where a system has received a source water assessment from the primacy agency, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the primacy agency or written by the operator.

(c) ***

(1)

(iii) *Contaminant*: Any physical, chemical, biological, or radiological substance or matter in water.

(3) ***

(v) *Corrosion control efforts*: Treatment (including pH adjustment, alkalinity adjustment, or corrosion inhibitor addition) or other efforts contributing to the control of the corrosivity of water, e.g., monitoring to assess the corrosivity of water.

(4) A report that contains information regarding a Level 1 or Level 2 Assessment required under Subpart Y- *Revised Total Coliform Rule* of this part must include the applicable definitions:

(5) Systems must use the following definitions for the terms listed below if the terms are used in the report unless the system obtains written approval from the state to use an alternate definition:

(i) *Parts per million (ppm)*: Parts per million (ppm) is a measurement of the quantity of a substance in the water. A concentration of one ppm means that there is one part of that substance for every one million parts of water.

Pre-publication Version

(ii) *Parts per billion (ppb)*: Parts per billion (ppb) is a measurement of the quantity of a substance in the water. A concentration of one ppb means that there is one part of that substance for every one billion parts of water.

(iii) *Parts per trillion (ppt)*: Parts per trillion (ppt) is a measurement of the quantity of a substance in the water. A concentration of one ppt means that there is one part of that substance for every one trillion parts of water.

(iv) *Pesticide*: Generally, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

(v) *Herbicide*: Any chemical(s) used to control undesirable vegetation.

(d) ***

(1) ***

(i) Contaminants subject to a MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants); and

(ii) Contaminants for which monitoring is required by § 141.40 (unregulated contaminants).

(2) The data relating to these contaminants must be presented in the reports in a manner that is clear and understandable for consumers. For example, the data may be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with EPA and State monitoring and analytical requirements during the previous calendar year, or the most recent calendar year before the previous calendar year except that:

(i) Where a system is allowed to monitor for regulated contaminants less often than once a year, the contaminant data section must include the date and results of the most recent sampling and

Pre-publication Version

the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.

(4) For each detected regulated contaminant (listed in appendix A to this subpart), the contaminant data section(s) must contain:

(iii) If there is no MCL for a detected contaminant, the contaminant data section(s) must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (c)(3) of this section;

(iv) For contaminants subject to an MCL, except turbidity and *E. coli*, the contaminant data section(s) must contain the highest contaminant level used to determine compliance with an NPDWR and the range of detected levels, as follows:

(B) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location: the highest average of any of the monitoring locations and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in § 141.64(b)(2), systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM or HAA5 MCL, the system must include the locational running annual averages for all locations that exceed the MCL.

(vii) Reserved

(viii) Reserved

(ix) The likely source(s) of detected contaminants to the best of the operator's knowledge.

Specific information regarding contaminants may be available in sanitary surveys and source water assessments and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in appendix A to this subpart that is most applicable to the system; and

(x) For *E. coli* analytical results under subpart Y-*Revised Total Coliform Rule*: The total number of *E. coli* positive samples.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the contaminant data section(s) should differentiate contaminant data for each service area and the report should identify each separate distribution system. For example, if displayed in a table, it should contain a separate column for each service area. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The detected contaminant data section(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques, and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of appendix A to this subpart.

Pre-publication Version

(7) For detected unregulated contaminants for which monitoring is required, the reports must present the average and range at which the contaminant was detected. The report must include a brief explanation of the reasons for monitoring for unregulated contaminants such as:

(i) Unregulated contaminant monitoring helps EPA to determine where certain contaminants occur and whether the Agency should consider regulating those contaminants in the future.

(ii) A system may write its own educational statement with approval by the Primacy Agency.

(8) For systems that exceeded the lead action level in § 141.80(c) (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation), the detected contaminant data section must clearly identify the exceedance if any corrective action has been required by the Administrator or the State during the monitoring period covered by the report. The report must include a clear and readily understandable explanation of the exceedance, the steps consumers can take to reduce their exposure to lead, and a description of any corrective actions the system has or will take to address the exceedance.

(e) ***

(1) If the system has performed any monitoring for *Cryptosporidium* which indicates that *Cryptosporidium* may be present in the source water or the finished water, the report must include:

(f) Compliance with NPDWR. In addition to the requirements of § 141.153(d)(6), the report must note any violation that occurred during the period covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

Pre-publication Version

(2) Filtration and disinfection prescribed by subpart H-Filtration and Disinfection of this part.

For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(3) Lead and copper control requirements prescribed by subpart I-Control of Lead and Copper of this part. For systems that fail to take one or more actions prescribed by §§ 141.80(d), 141.81, 141.82, 141.83, 141.84, or 141.93, the report must include the applicable language of appendix A to this subpart for lead, copper, or both.

(h) ***

(1) ***

(i) Both tap water and bottled water come from rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and, in some cases, radioactive material. The water can also pick up and transport substances resulting from the presence of animals or from human activity. These substances are also called contaminants.

(ii) Contaminants are any physical, chemical, biological, or radiological substance or matter in water. Contaminants that may be present in source water include:

(B) *Inorganic contaminants*, such as salts and metals, which can occur naturally in the soil or groundwater or may result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(E) *Radioactive contaminants*, which can occur naturally or be the result of oil and gas production and mining activities.

(iii) To protect public health, the Environmental Protection Agency prescribes regulations which limit the amount of certain contaminants in tap water provided by public water systems. The Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily mean that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(2) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report. If a system uses a website or social media to share additional information, EPA recommends including information about how to access such media platforms in the report.

(3) In communities with a large proportion of consumers with limited English proficiency, as determined by the Primacy Agency, the report must contain information in the appropriate language(s) regarding the importance of the report and contain a telephone number, address, or

Pre-publication Version

contact information where such consumers may obtain a translated copy of the report, or assistance in the appropriate language, or the report must be in the appropriate language.

(i) Systems that are a recipient of EPA assistance, as defined in 40 CFR 7.25, must provide meaningful access to information in the reports to persons served by the water system with limited English proficiency.

(ii) Systems unable to provide translation support must include contact information to obtain translation assistance from the State. As described in § 142.16(f), States are required, as a condition of primacy to provide water systems with contact information where consumers can obtain translation assistance from the State.

(6) Systems required to comply with subpart S-Ground Water Rule.

(i) Any ground water system that receives notice from the State of a significant deficiency or notice from a laboratory of a fecal indicator-positive ground water source sample that is not invalidated by the State under § 141.402(d) must inform its customers of any significant deficiency that is uncorrected at the time of the next reporting period or of any fecal indicator-positive ground water source sample in the next report or 6-month update according to § 141.155. The system must continue to inform the public annually until the State determines that particular significant deficiency is corrected or the fecal contamination in the ground water source is addressed under § 141.403(a). Each report must include the following elements:

(7) Systems required to comply with subpart Y-Revised Total Coliform Rule.

(i) Any system required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an *E. coli* MCL violation must include in the report the

Pre-publication Version

text found in paragraph (h)(7)(i)(A) and paragraphs (h)(7)(i)(B) and (C) of this section as appropriate, filling in the blanks accordingly and the text found in paragraphs (h)(7)(i)(D)(I) and (2) of this section if appropriate. Systems may write their own assessment statement with equivalent information for paragraphs (h)(7)(i)(B) and (C), with approval by the Primacy Agency.

(A) Coliforms are bacteria that occur naturally in the environment and are used as an indicator that other, potentially harmful, waterborne organisms may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

(B) Because we found coliforms during sampling, we were required to conduct [INSERT NUMBER OF LEVEL 1 ASSESSMENTS] assessment(s) of the system, also known as a Level 1 assessment, to identify possible sources of contamination. [INSERT NUMBER OF LEVEL 1 ASSESSMENTS] Level 1 assessment(s) were completed. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

(C) Because we found coliforms during sampling, we were required to conduct [INSERT NUMBER OF LEVEL 2 ASSESSMENTS] detailed assessments, also known as a Level 2 assessment, to identify possible sources of contamination. [INSERT NUMBER OF LEVEL 2 ASSESSMENTS] Level 2 assessments were completed. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

Pre-publication Version

(D) ***

(1) During the past year we failed to conduct all the required assessment(s).

(ii) Any system required to conduct a Level 2 assessment due to an *E. coli* MCL violation must include in the report the text found in paragraphs (h)(7)(ii)(A) and (B), and health effects language in appendix A of this section, filling in the blanks accordingly and the text found in paragraphs (h)(7)(ii)(C)(1) and (2) of this section, if appropriate. Systems may write their own assessment statement with equivalent information for paragraphs (h)(7)(ii)(A), (B) and (C), with approval by the Primacy Agency.

(A) We found *E. coli* bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s), also known as a Level 1 assessment, to identify problems and to correct any problems that were found during these assessments.

(B) We were required to complete a detailed assessment of our water system, also known as a Level 2 assessment, because we found *E. coli* in our water system. In addition, we were required to take [INSERT NUMBER OF CORRECTIVE ACTIONS] corrective actions and we completed [INSERT NUMBER OF CORRECTIVE ACTIONS] of these actions.

(C) Any system that has failed to complete the required assessment or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

(2) We failed to correct all defects that were identified during the assessment that we conducted.

(iii) ***

Pre-publication Version

(D) We failed to test for *E. coli* when any repeat sample tested positive for total coliform.

(8) *Systems required to comply with subpart I-Control of Lead and Copper.*

(i) The report must notify consumers that complete lead tap sampling data are available for review and must include information on how to access the data.

(ii) The report must include a statement that a service line inventory (including inventories consisting only of a statement that there are no lead service lines) has been prepared and include instructions to access the publicly available service line inventory. If the service line inventory is available online, the report must include the direct link to the inventory.

(iii) The report must contain a brief and plainly worded explanation of the *corrosion control efforts* the system is taking in accordance with 40 CFR part 141, subpart I *Control of Lead and Copper*.

5. Amend § 141.154 by:

- a. Revising paragraphs (a), (b), (c)(1) and (2), and (d)(2); and
- b. Removing paragraphs (e) and (f).

The revisions read as follows:

§ 141.154 Required additional health information.

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to

Pre-publication Version

lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791) or on EPA's website epa.gov/safewater.

(b) A system that detects arsenic above 0.005 mg/L and up to and including 0.010 mg/L:

(1) Must include in its report a short informational statement about arsenic, using language such as: Arsenic is known to cause cancer in humans. Arsenic also may cause other health effects such as skin damage and circulatory problems. [NAME OF UTILITY] meets the EPA arsenic drinking water standard, also known as a Maximum Contaminant Level (MCL). However, you should know that EPA's MCL for arsenic balances the scientific community's understanding of arsenic-related health effects and the cost of removing arsenic from drinking water. The highest concentration of arsenic found in [YEAR] was [INSERT MAX ARSENIC LEVEL per § 141.153(d)(4)(iv)] ppb, which is less than the EPA's MCL of 10 ppb.

(2) May write its own educational statement, with approval by the Primacy Agency.

(c) ***

(1) Must include a short informational statement about the impacts of nitrate on children using language such as: Even though [NAME OF UTILITY] meets the EPA nitrate drinking water standard, also known as a Maximum Contaminant Level (MCL), if you are caring for an infant and using tap water to prepare formula, you may want to use alternate sources of water or ask for advice from your health care provider. Nitrate levels above 10 ppm pose a particularly high health concern for infants under 6 months of age and can interfere with the capacity of the infant's blood to carry oxygen, resulting in a serious illness. Symptoms of serious illness include shortness of breath and blueness of the skin, known as "blue baby syndrome." Nitrate levels in drinking water can increase for short periods of time due to high levels of rainfall or agricultural activity, therefore we test for nitrate [INSERT APPLICABLE SAMPLING FREQUENCY]. The

Pre-publication Version

highest level for nitrate found during [YEAR] was [INSERT MAX NITRATE LEVEL per § 141.153(d)(4)(iv)] ppm, which is less than the EPA's MCL of 10 ppm.

(2) May write its own educational statement, with approval by the Primacy Agency.

(d)***

(2) A system may write its own educational statement, with approval by the State.

6. Amend § 141.155 by:

- a. Revising paragraphs (a), (b), (c), (e), (g) introductory text, (g)(1)(i), (g)(2); and
- b. Adding paragraphs (i) and (j).

The revisions and additions read as follows:

§ 141.155 Report delivery, reporting and recordkeeping.

(a) Except as provided in paragraph (g) of this section, each community water system must directly deliver a copy of the report to each customer.

(1) Systems must use at a minimum, one of the following forms of delivery:

- (i) Mail a paper copy of the report;
- (ii) Mail a notification that the report is available on a website via a direct link; or
- (iii) Email a direct link or electronic version of the report.

(2) Systems using delivery methods in paragraph (a)(1)(ii) and (iii) of this section must provide a paper copy of the report to any customer upon request. The notification method must prominently display directions for requesting such copy.

(3) For systems that choose to electronically deliver the reports by posting the report to a website and providing a notification either by mail or email, the report must be publicly available on the website at time notification is made. Notifications must prominently display the link and include an explanation of the nature of the link.

Pre-publication Version

(i) Systems may use a webpage to convey the information required in §§ 141.153, 141.154, and 141.156.

(4) Systems that use a publicly available website to provide reports must maintain public access to the report for no less than 3 years.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the primacy agency. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers includes a mix of methods to reach the broadest possible range of persons served by the water system such as, but not limited to: Posting the reports on the internet; mailing reports or postcards with links to the reports to all service addresses and/or postal customers; using an opt in notification system to send emails and/or texts with links to the reports to interested consumers; advertising the availability of the report in the news media and on social media; publication in a local newspaper; posting a copy of the report or notice of availability with links (or equivalent, such as QR codes) in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations; and holding a public meeting to educate consumers on the reports.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must provide a copy of the report to the primacy agency, followed within 3 months by a certification that the report(s) has/have been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the primacy agency.

Pre-publication Version

(e) Each community water system must make its reports available to the public upon request. Systems must make a reasonable effort to provide the reports in an accessible format to anyone who requests an accommodation.

(g) The Governor of a State or their designee, or the Tribal Leader where the tribe has met the eligibility requirements contained in § 142.72 for the purposes of waiving the mailing requirement, can waive the requirement of paragraph (a) of this section for community water systems serving fewer than 10,000 persons. In consultation with the tribal government, the Regional Administrator may waive the requirement of § 141.155(a) in areas in Indian country where no tribe has been deemed eligible.

(1) ***

(i) Publish the reports in one or more local newspapers or on one or more local online news sites serving the area in which the system is located;

(2) Systems serving 500 or fewer persons may forego the requirements of paragraphs (g)(1)(i) and (ii) of this section if they provide notice that the report is available upon request at least once per year to their customers by mail, door-to-door delivery or by posting in one or more locations where persons served by the system can reasonably be expected to see it.

(i) Systems serving 100,000 or more persons, must develop a plan for providing meaningful access to reports for limited English-proficient consumers. The system must evaluate the languages spoken by limited English-proficient persons served by the water system, and the

system's anticipated approach to address translation needs. The first plan must be provided to the state with the first report in 2025. Plans must be evaluated annually and updated as necessary and reported with the certification required in § 141.155(c).

(j) Delivery timing and biannual delivery.

(1) Each community water system must distribute reports by July 1 each year. Each report distributed by July 1 must use data collected during, or prior to, the previous calendar year using methods described in paragraph (a) of this section.

(2) Each community water system serving 10,000 or more persons must distribute the report biannually, or twice per calendar year, by December 31 using methods described in paragraph (a) of this section.

(3) Systems required to comply with paragraph (j)(2) of this section, with a violation or action level exceedance that occurred between January 1st and June 30th of the current year, or have received monitoring results from required monitoring under § 141.40 Unregulated Contaminants Monitoring Rule, must include a 6-month update with the second report with the following:

(i) A short description of the nature of the 6-month update and the biannual delivery.

(ii) If a system receives an MCL, MRDL, or treatment technique violation, the 6-month update must include the applicable contaminant section information in § 141.153(d)(4), and a readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, actions taken by the system to address the violation, and timeframe the system expects to complete those actions. To describe the potential health effects, the system must use the relevant language of appendix A to this subpart.

(iii) If a system receives any other violation, the 6-month update must include the information in § 141.153(f).

(iv) If a system exceeded the lead action level following monitoring conducted between January 1st and June 30th of the current year, the system must include information identified in § 141.153(d)(4)(vi) and 141.153(d)(8).

(v) For systems monitoring under § 141.40 that become aware of results for samples collected during the reporting year but were not included in the reports distributed by July 1, the system must include information as required by § 141.153(d)(7).

7. Adding § 141.156 to read as follows:

§ 141.156 Summary of report contents

(a) Each report must include a summary displayed prominently at the beginning of the report.

(b) Systems must include, at a minimum, the following information in the summary:

(1) Summary of violations and compliance information included in the report required by §§ 141.153(d)(6), 141.153(d)(8), 141.153(f), 141.153(h)(6), and 141.153(h)(7).

(2) Contact information for owner, operator, or designee of the community water system as a source of additional information concerning the report, per § 141.153(h)(2).

(c) If applicable, systems must include the following in the summary:

(1) For systems using delivery methods in § 141.155(a)(1)(ii) or (iii), the summary must include directions for consumers to request a paper copy of the report, as described in § 141.155(a)(2).

(ii) Translation contact information to receive assistance with translating information in the report, per § 141.153(h)(3).

(iii) For systems using the report to also meet the public notification requirements of subpart Q- Public Notification of Drinking Water Violations, the summary must specify that it is also serving to provide public notification of one or more violations or situations, provide a brief

Pre-publication Version

statement about the nature of the notice(s), and a brief description of how to locate the notice(s) in the report.

(d) The summary should be written in plain language and may use infographics.

(e) For those systems required to include a 6-month update with the second report under § 141.155(j)(2), the summary should include a brief description of the nature of the report and update, noting the availability of new information for the current year (between January and June).

(f) The report summary must include the following standard language to encourage the distribution of the report to all persons served:

Please share this information with anyone who drinks this water (or their guardians), especially those who may not have received this report directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this report in a public place or distributing copies by hand, mail, email, or another method.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

8. 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.

9. Amend § 142.14 by adding paragraph (h) to read as follows:

§ 142.14 Records kept by States.

(h) Each State that has primary enforcement responsibility must maintain the following records under subpart O of this part:

Pre-publication Version

(1) A copy of the consumer confidence reports for a period of one year and the certifications obtained pursuant to 40 CFR 141.155(c) for a period of 5 years.

(2) A copy of the plans submitted pursuant to 40 CFR 141.153(h)(3)(i) for a period of 5 years.

10. Amend § 142.15 by:

a. Revising (b) introductory text;

b. In paragraph (b)(2), removing the period at the end of the paragraph and adding “; and” in its place; and

c. Adding paragraph (b)(3).

The revisions and additions read as follows:

§ 142.15 Reports by States.

(b) Each State which has primary enforcement responsibility must submit annual reports to the Administrator on a schedule and in a format prescribed by the Administrator, consisting of the following information:

(3) Compliance monitoring data and related data necessary for determining compliance for all existing National Primary Drinking Water Regulations (NPDWRs) in 40 CFR part 141. Related compliance data include specified records kept by the State in § 142.14.

11. Amend § 142.16 by revising paragraphs (f)(1), (3), and (4) to read as follows:

§ 142.16 Special primacy requirements.

(f) ***

Pre-publication Version

(1) Each State that has primary enforcement responsibility must adopt the revised requirements of 40 CFR part 141, subpart O no later than **[DATE TWO YEARS AFTER DATE OF FINAL RULE IN THE FEDERAL REGISTER]**. States must submit revised programs to EPA for approval using the procedures in § 142.12(b) through (d).

(3) Each State must, as a condition of primacy, provide water systems with translation assistance to consumers upon request and provide contact information where consumers can obtain translation assistance for inclusion in the system's report.

(4) Each application for approval of a revised program must include:

(i) A description of how the State will meet the requirements in § 141.153(h)(6) to provide translation assistance to consumers and contact information for translation assistance to water systems; and

(ii) A description of procedures for waiving the mailing requirement for small systems consistent with 40 CFR 141.155(g).
