

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this regulation is in § 1.6038-3T. This information is required by the IRS to identify foreign partnerships which are controlled by United States persons and verify amounts reported by the partners. The collection of information is mandatory. The likely respondents will be individuals and business or other for-profit organizations.

The burden of complying with the collection of information required to be reported on Form 8865 is reflected in the burden for Form 8865. The estimated number of respondents is 5000. The estimated burden for the 2001 Form 8865 per respondent is 89 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

### Background and Explanation of Provisions

The temporary regulation in the Rules and Regulations section of this issue of the **Federal Register** amends 26 CFR part 1. If a foreign partnership files Form 1065 or Form 1065-B and a United States partner is required to file Form 8865 with respect to that partnership, the temporary regulation amends Treas. Reg. § 1.6038-3 to provide that the United States partner must follow the filing requirements that are specified in the instructions for Form 8865. The text of the temporary regulation also serves as the text of this proposed regulation. The preamble to the temporary regulation explains the temporary regulation and this proposed regulation.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and because this regulation does not impose a collection of information on small entities, a

Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

### Comments and Public Hearing

Before this proposed regulation is adopted as a final regulation, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 12, 2003, at 10 a.m., in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble. The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written or electronic comments by March 24, 2003 and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by February 19, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

### Drafting Information

The principal author of this regulation is Tasheaya Warren, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.6038-3 is amended by revising paragraph (j) to read as follows:

### § 1.6038-3 Information returns required of certain United States persons with respect to controlled foreign partnerships (CFPs).

\* \* \* \* \*

(j) [The text of the proposed amendment to § 1.6038-3(j) is the same as the text for § 1.6038-3T(j) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

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**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 141

[FRL-7428-2]

### Minor Clarification of National Primary Drinking Water Regulation for Arsenic

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** Today, EPA is proposing to revise the rule text that established the 10 parts per billion arsenic drinking water standard to express the standard as 0.010 mg/L instead, in order to clarify the implementation of the original rule.

**DATES:** EPA must receive public comment on this proposed rule by January 22, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Send comments to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OW-2002-0057. Follow the detailed instructions as provided in section I.C. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** For general information contact the EPA Safe Drinking Water Hotline at (800) 426-4791. The Hotline operates Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. ET. For technical information contact, Richard Reding, Office of Ground Water

and Drinking Water (MC-4607M), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460, (202) 564-4656, e-mail: [Reding.Richard@epa.gov](mailto:Reding.Richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Who Is Regulated by This Action?*

Entities potentially regulated by this regulation are public water systems

(PWSs). All community and non-transient non-community water systems must comply with the revised arsenic drinking water standard beginning on January 23, 2006. A community water system (CWS) means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. Non-transient non-community water system

(NTNCWS) means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year. Primacy States are required to revise their programs to adopt the new arsenic standard by January 22, 2003 (unless an extension has been granted). Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities
State, Tribal and Local Government .....	State, Tribal or local government-owned/operated water supply systems using ground water, surface water or mixed ground water and surface water.
Federal Government .....	Federally owned/operated community water supply systems using ground water, surface water or mixed ground water and surface water.
Industry .....	Privately owned/operated community water supply systems using ground water, surface water or mixed ground water and surface water.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in sections 141.11 and 141.62 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2002-0057. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone

number for the Water Docket is (202) 566-2426. For access to docket material, please call (202) 566-2426 to schedule an appointment.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA’s electronic public docket. EPA’s policy is that copyrighted material will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.B.1.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA’s electronic public

docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA’s electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA’s electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA’s electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA’s electronic public docket along with a brief description written by the docket staff.

*C. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address,

and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

a. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OW-2002-0057. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

b. *E-mail.* Comments may be sent by electronic mail (e-mail) to [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), Attention Docket ID No. OW-2002-0057. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

c. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three copies of your comments and any enclosures to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania

Avenue, NW., Washington, DC, 20460, Attention Docket ID No. OW-2002-0057.

3. *By Hand Delivery or Courier.* Deliver your comments to: Water Docket, Environmental Protection Agency, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW-2002-0057. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.B.1.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### **II. What Is EPA's Statutory Authority for This Proposal?**

SDWA section 1412(b)(12)(A) required EPA to publish a revised arsenic standard. On January 22, 2001, EPA published a final rule revising the existing arsenic drinking water standard from 50 parts per billion (ppb) to 10 ppb, with a compliance date of January 23, 2006 (66 FR 6976-7066). Under EPA's regulations at 40 CFR 142.12, States that wish to maintain primary enforcement responsibility for drinking water standards must revise their programs to adopt new or revised Federal regulations. Today's action clarifies one issue raised by stakeholders concerning the standard published in January 2001.

#### **III. What Is EPA Proposing Today?**

In the January 2001 rule that established a 10 ppb (0.01 mg/L) arsenic drinking water standard, EPA clarified at 40 CFR 141.23(i)(4) that systems must report their monitoring results to the nearest 1 ppb (0.001 mg/L).

EPA added this provision to make clear that compliance with the new standard would be measured to the nearest 0.001 mg/L, thus rounding of results to the nearest 0.01 mg/L would not be permitted. Every aspect of the final rule, and all analyses supporting the rule, are expressed in terms of the 10 ppb standard.

A number of States and other stakeholders have raised a concern that State laws adopting the Federal law as written may allow rounding of such a standard so that the effective standard (in consideration of rounding of results) would be 0.014 mg/L (or 14 ppb), not 0.010 mg/L. Stakeholders attending the arsenic rule implementation workshops also identified this rounding issue. EPA considers such rounding to be inconsistent with the intent of the rule. In response, States and other stakeholders have suggested that the rule text be revised to clarify the rounding issue and avoid the potential for confusion about how to evaluate compliance results that are greater than 10 ppb.

Today, EPA is proposing to amend the rule text so that the new arsenic standard is expressed as 0.010 mg/L instead of 0.01 mg/L. While EPA firmly believes that the existing rule, in light of the clarity of the supporting discussion and documents and the addition of new 40 CFR 141.23(i)(4), already establishes 10 ppb and not 14 ppb as the new standard, EPA nonetheless believes a clarifying amendment is appropriate for two reasons. First, it is important to be responsive to State officials and other stakeholders who want to implement the regulations as intended but believe they need additional rule text to avoid confusion as they move to adopt the Federal arsenic standard. In this regard, the Agency does not want the technical way that the arsenic MCL is expressed in the regulations to be an obstacle for State adoption or to cause unnecessary transaction costs for State regulators, utility owners and operators, and other stakeholders who will help implement the new arsenic standard. Second, it is critical that public water systems evaluate, choose, and install the technology necessary to comply with the new arsenic standard as soon as possible. Hence, EPA wants to eliminate any remaining confusion or uncertainty over what the new enforceable standard for arsenic is. Readers should note that regardless of whether EPA finalizes this rule, EPA believes the 10 ppb standard has already been established by the existing rule.

#### IV. What Issue Is Open for Public Comment?

Today, EPA is requesting comment on a proposed rule change that would revise the rule text so that the 10 ppb standard is expressed as 0.010 mg/L instead of 0.01 mg/L. EPA requests comment on whether this change is appropriate in order to address the previously described stakeholder concerns. Readers should please note that EPA is not requesting comment on any other issue associated with the arsenic standard or its implementation, and EPA will not respond to any comments other than those concerning the revision of the rule text to express the MCL as 0.010 mg/L.

EPA firmly believes that extensive and exhaustive public debate has already taken place on all issues of public interest and concern. As a result, EPA will not respond to any other comments relating to the 10 ppb arsenic standard; nor will EPA respond to any issues concerning the record supporting that standard, the underlying rationale for that standard, or new information suggesting revisions to that standard. However, EPA noted in the April 17, 2002 (67 FR 19037) announcement of the results of EPA's review of existing drinking water standards, that EPA will continue to evaluate the expert analysis, the voluminous public comment received after publication of the final rule, and other relevant information on the arsenic drinking water standard, as part of the next six-year review of drinking water standards, which is to be completed in August of 2008.

#### V. Administrative Requirements

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

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

##### B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.* This proposed rule merely clarifies the way the 10 ppb MCL for arsenic is expressed in regulatory text.

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

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small government jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities of the agency" after proposing

the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. sections 601(3)—(5). In addition to the above, to establish an alternative small business definition, agencies must consult with the Small Business Administration's (SBA's) Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's proposed rule on small entities, EPA considered small entities to be public water systems serving 10,000 or fewer persons. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, EPA proposed using this alternative definition in the **Federal Register**, (63 FR 7620, February 13, 1998), requested public comment, consulted with the Small Business Administration (SBA), and expressed its intention to use the alternative definition for regulatory flexibility assessments under the RFA for all future drinking water regulations in the Consumer Confidence Reports regulation (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this proposed regulation.

This proposed rule imposes no cost on any entities over and above those imposed by the final arsenic rule, because that rule was developed, costed, and evaluated as 10 ppb. This proposed rule merely clarifies the way the 10 ppb MCL is expressed in regulatory text. Therefore, after considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

##### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome

alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. This proposed rule imposes no enforceable duty on any State, local or Tribal governments or the private sector. This proposed rule would not change the costs to State, local, or Tribal governments as estimated in the final arsenic rule, because that rule was developed, costed, and evaluated as 10 ppb, and this proposed rule merely clarifies the way the 10 ppb MCL is expressed in regulatory text. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reason, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. There is no cost to State and local governments, and the proposed rule does not preempt State law. This proposed rule imposes no cost on any State, or local governments over and above those imposed by the final arsenic rule because that rule was developed, costed, and evaluated as 10 ppb. This proposed rule merely clarifies the way the 10 ppb MCL is expressed in regulatory text. Thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposal from State and local officials.

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

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

This proposed rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. There is no cost to Tribal governments, and the proposed rule does not preempt tribal law. This proposed rule imposes no cost on any Tribal government over and above those imposed by the final arsenic rule because that rule was developed, costed and evaluated as 10 ppb. This proposed rule merely clarifies the way the 10 ppb MCL is expressed in

regulatory text. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal Governments, EPA specifically solicits additional comment on this proposal from Tribal officials.

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

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This proposed rule merely clarifies the way the 10 ppb MCL is expressed in regulatory text.

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

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113 section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards

bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects for 40 CFR Part 141

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

Dated: December 17, 2002. Christine Todd Whitman, Administrator.

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

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

2. Section 141.23 is amended:

- a. By revising the entry for arsenic in the table in paragraph (a)(4)(i).
b. By revising footnote 15 to the table in paragraph (k)(1).

The revisions read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

- (a) \* \* \*
(4) \* \* \*
(i) \* \* \*

DETECTION LIMITS FOR INORGANIC CONTAMINANTS

Table with 4 columns: Contaminant, MCL (mg/l), Methodology, Detection Limit (mg/l). Row for Arsenic with MCL 0.010 and various detection methods like Atomic Absorption and ICP-Mass Spectrometry.

6 The value for arsenic is effective January 23, 2006. Until then, the MCL is 0.05 mg/L.

7 The MDL reported for EPA Method 200.9 (Atomic Absorption; Platform—Stabilized Temperature) was determined using a 2x concentration step during sample digestion. The MDL determined for samples analyzed using direct analyses (i.e., no sample digestion) will be higher. Using multiple depositions, EPA 200.9 is capable of obtaining MDL of 0.0001 mg/L.

8 Using selective ion monitoring, EPA Method 200.8 (ICP-MS) is capable of obtaining a MDL of 0.0001 mg/L.

- (k) \* \* \*
(1) \* \* \*

15 Starting January 23, 2006 analytical methods using the ICP-AES technology, may not be used because the detection limits for these methods are 0.008 mg/L or higher. This

restriction means that the two ICP-AES methods (EPA Method 200.7 and SM 3120 B) approved for use for the MCL of 0.05 mg/L may not be used for compliance determinations for the revised MCL of 0.010 mg/L. However, prior to January 23, 2006 systems may have compliance samples analyzed with these less sensitive methods.

3. Section 141.62(b) is amended by revising the entry "(16)" for arsenic in the table to read as follows:

§ 141.62 Maximum contaminant levels for inorganic contaminants.

- (b) \* \* \*

Table with 4 columns: Contaminant, MCL (mg/l), Methodology, Detection Limit (mg/l). Row for (16) Arsenic with MCL 0.010.

Subpart O—[Amended]

4. Amend § 141.154 by revising paragraphs (b) introductory text and (f) to read as follows:

§ 141.154 Required additional health information.

\* \* \* \* \*

(b) Ending in the report due by July 1, 2001, a system which detects arsenic

at levels above 0.025 mg/L, but below the 0.05 mg/L, and beginning in the report due by July 1, 2002, a system that detects arsenic above 0.005 mg/L and up to and including 0.010 mg/L:

\* \* \* \* \*

(f) Beginning in the report due by July 1, 2002 and ending January 22, 2006, a community water system that detects arsenic above 0.010 mg/L and up to and

including 0.05 mg/L must include the arsenic health effects language prescribed by appendix A to subpart O of this part.

5. Amend Appendix A to Subpart O by revising the entry for arsenic under "Inorganic contaminants:" to read as follows:

**Appendix A to Subpart O—Regulated Contaminants**

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Inorganic contaminants:	*	*	*	*	*	*
Arsenic .....	10.010	1000	110.	10	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

<sup>1</sup> These arsenic values are effective January 23, 2006. Until then, the MCL is 0.05 mg/L and there is no MCLG.

**Subpart Q—[Amended]**

6. Amend Appendix B to Subpart Q by revising entry “9. Arsenic” under “C.

Inorganic Chemicals (IOCs)”, to read as follows:

**Appendix B to Subpart Q of Part 141—Standard Health Effects Language for Public Notification**

Contaminant	MCLG <sup>1</sup> mg/L	MCL <sup>2</sup> mg/L	Standard health effects language for public notification
9. Arsenic <sup>11</sup> .....	0	0.010	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

**Appendix B—Endnotes**

\* \* \* \* \*  
 1. MCLG—Maximum contaminant level goal.

2. MCL—Maximum contaminant level.

\* \* \* \* \*  
 11. These arsenic values are effective January 23, 2006. Until then, the MCL is 0.05 mg/L and there is no MCLG.

\* \* \* \* \*  
 [FR Doc. 02–32376 Filed 12–20–02; 8:45 am]  
 BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION**

47 CFR Parts 22, 24 and 27

[WT Docket No. 02–353; FCC 02–305]

**Service Rules for Advanced Wireless Services**

AGENCY: Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document solicits comment on service rules for Advanced Wireless Services in the 1710–1755 MHz and 2110–2155 MHz bands, including provisions for application, licensing, operating and technical rules, and for competitive bidding. These frequency bands have previously been used for a variety of Government and non-Government services. Concurrently with this document, the Commission adopted another decision, published elsewhere in this **Federal Register**, allocating these frequency bands for fixed and mobile services to provide for the introduction of new advanced wireless services to the public. The Commission takes this action to eliminate barriers to and facilitate the provision of new services to the public, and to encourage optimum use of these frequencies.

**DATES:** Comments are due on or before February 7, 2003, and reply comments are due on or before March 14, 2003. Public comments on the information

collections are due on or before February 28, 2003, and comments by the Office of Management and Budget (OMB) are due on or before April 28, 2003.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

**FOR FURTHER INFORMATION CONTACT:** John Spencer or Eli Johnson, Staff Attorneys, 202–418–1310. For additional information concerning the information collections contained in this document, contact Judith Boley Herman at 202–418–0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM) in WT Docket No. 02–353, FCC 02–305, adopted November 7, 2002, and released November 22, 2002. The complete text of the NPRM and Initial Regulatory Flexibility Analysis is available on the Commission’s Internet site, at <http://>