

requirements for initiating withdrawal of State primacy by clarifying the extent of EPA discretion in initiating the process; States are not considered small entities under this rulemaking for RFA purposes.

3. Paperwork Reduction Act

This rulemaking contains no new or additional information collection activities and, therefore, no information collection request will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

4. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, which was signed into law on March 22, 1995, sets requirements for EPA with respect to rules that contain federal mandates that may result in certain specified costs to State, local, or tribal governments. Also, before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. Today's rule simply addresses the subject of EPA's discretion to initiate primacy withdrawal when a State is not maintaining the requirements for primacy and sets forth the circumstances in which EPA must begin the withdrawal process. This rule does not change the actual requirements that States must meet to maintain primacy or otherwise impose an enforceable duty on States. Similarly, this rule does not impose an enforceable duty on any other entities. Thus, there are no federal mandates in this rule for purposes of the UMRA. In addition, today's action does not establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, and so

does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 142

Environmental protection, Administrative practices and procedures, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply, Indians.

Dated: June 21, 1995.

Fred Hansen,

Acting Administrator.

For the reasons set forth in the preamble, part 142, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

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

§ 142.11 [Amended]

2. Section 142.11 is amended by revising paragraph (b)(2) to read as follows:

§ 142.11 Initial determination of primary enforcement responsibility.

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(b) * * *

(2) A final determination by the Administrator that a State has met or has not met the requirements for primary enforcement responsibility shall take effect in accordance with the public notice requirements and related procedures under § 142.13.

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§ 142.13 [Amended]

3. Section 142.13 is amended by inserting the word "final" before the word "determination" in each of the three places where the word "determination" occurs in paragraph (a).

§ 142.17 [Amended]

4. Section 142.17 is amended by revising the word "§ 142.10" in paragraph (a)(1) to read "40 CFR part 142, subpart B," and by revising paragraphs (a)(2) and (a)(4) to read as follows:

§ 142.17 Review of State programs and procedures for withdrawal of approved primacy programs.

(a)(1) * * *

(2) When, on the basis of the Administrator's review or other available information, the Administrator determines that a State no longer meets the requirements set forth in 40 CFR part 142, subpart B, the Administrator shall initiate proceedings to withdraw primacy approval. Among the factors the Administrator intends to consider as relevant to this determination are the following, where appropriate: whether the State has requested and has been granted, or is awaiting EPA's decision on, an extension under § 142.12(b)(2) of the deadlines for meeting those requirements; and whether the State is taking corrective actions that may have been required by the Administrator. The Administrator shall notify the State in writing that EPA is initiating primacy withdrawal proceedings and shall summarize in the notice the information available that indicates that the State no longer meets such requirements.

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(4) After reviewing the submission of the State, if any, made pursuant to paragraph (a)(3) of this section, the Administrator shall make a final determination either that the State no longer meets the requirements of 40 CFR part 142, subpart B, or that the State continues to meet those requirements, and shall notify the State of his or her determination. Any final determination that the State no longer meets the requirements of 40 CFR part 142, subpart B, shall not become effective except as provided in § 142.13.

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