

**§ 86.1105–87 [Amended]**

196. In § 86.1105–87, paragraphs (b) and (c)(1) are removed and reserved.

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**40 CFR Parts 35, 122, 123, 124, 125, 140, 141, 144, 146, 148, 403, 405, 406, 407, 408, 409, 411, 412, 417, 418, 424, 426, 427, 428, 432, 435, 436, 443, 446, 447, 454, 455, 457, 460**

[FRL–5223–9]

**National Pollutant Discharge Elimination System and Pretreatment Programs; State and Local Assistance Programs; Effluent Limitations Guidelines and Standards; Public Water Supply and Underground Injection Control Programs: Removal of Legally Obsolete or Redundant Rules**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is today removing from the Code of Federal Regulations (CFR) a number of regulations pertaining to its water programs that are obsolete or redundant. Deleting the obsolete regulations from the CFR will clarify the legal status of these regulations for both the regulated community and the public. EPA is also deleting from the CFR the maximum contaminant level goal (“MCLG”) and maximum contaminant level (“MCL”) for nickel, which have been vacated by a court. In addition, EPA is making one correction due to a typographical error.

**EFFECTIVE DATE:** This final rule takes effect on June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Puskar, Policy and Resources Management Office (4102), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460, (202) 260–8532.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On March 4, 1995 the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995 to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of all of its rules, including rules issued under the Federal Water Pollution Control Act, as amended (“FWPCA”) (33 U.S.C. 1158 and 1251 et seq.) (also cited below as the Clean Water Act or “CWA”), the

Safe Drinking Water Act (“SDWA”) (42 U.S.C. 300f et seq.), and the Marine Protection, Research, and Sanctuaries Act (also known as the Ocean Dumping Act or “ODA”) (33 U.S.C. 1401 et seq.). Based on this review, EPA is today deleting a number of FWPCA and SDWA rules from the Code of Federal Regulations, as set forth below. These rules are being deleted either because they are obsolete or because they are redundant with other statutory or regulatory provisions. The rules deemed to be obsolete have expired by their own terms or by the terms of the statute or have been made obsolete by the completion of the grant projects to which they applied. In the case of the maximum contaminant level goal (“MCLG”) and maximum contaminant level (“MCL”) for nickel, EPA is removing those regulations from the CFR because they have been vacated (i.e., declared void and of no effect) by a court. Today’s action does not make any legally substantive changes to the regulatory programs at issue.

Today’s removal of rules from the CFR is not intended to affect the status of any civil or criminal actions that were initiated prior to June 29, 1995 or which may be initiated in the future to redress violations of the rules that occurred prior to today’s action.

In addition to the regulations addressed in today’s action, EPA’s Office of Water has identified a number of other regulatory provisions that may provide opportunities for further streamlining beyond the deletion of obsolete and redundant regulations being accomplished today. The Agency intends to address those matters in future actions.

**II. Obsolete Rules**

**A. Federal Water Pollution Control Act Rules**

**40 CFR Part 35, Subpart C—Grants for Construction of Wastewater Treatment Works.** EPA is deleting Part 35, Subpart C, which comprises regulations promulgated under Section 8 of the Federal Water Pollution Control Act, as amended. Section 8 authorized EPA to award grants to municipalities for the construction of treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters. Subpart C was made obsolete by passage of the CWA and its implementing regulations at 40 CFR Part 35, Subparts E, I and J, as well as completion of most of the projects funded by Subpart C grants, which date to the period prior to the passage of the CWA in 1972. Any remaining active grants will continue to be governed by

the Subpart C regulations applicable at the time the grant was awarded.

**40 CFR Part 35, Subpart D—**

**Reimbursement Grants.** EPA is deleting Part 35, Subpart D, which comprises regulations promulgated under Section 206 of the CWA, as amended. Section 206 authorized EPA to award grants to municipalities for reimbursement of state or local funds used for public sewage treatment works projects on which construction was initiated after June 30, 1956, but before July 1, 1973, and for which a grant was awarded under Section 8 of Public Law 84–660. Subpart D was made obsolete by completion of reimbursements to the eligible projects. In the unlikely event of a question regarding a section 206 reimbursement project, the Subpart D regulations in effect when the grant was awarded should be consulted.

**Section 122.1(g).** This provision simply recites portions of the Clean Water Act that give EPA authority over NPDES-related matters. This language is superfluous and is therefore deleted by today’s rulemaking.

**Sections 122.21(m)(3) and (n)(2) and 40 CFR Part 125 Subpart J—Extensions of Deadlines for Meeting Treatment Requirements.** CWA sections 301(i)(1) and (2) allowed parties to seek extensions through permit issuance or modification of the statutory deadlines for meeting certain treatment requirements. EPA implemented these provisions in sections 122.21(n)(2) and (m)(3) of the regulations. Section 122.21(n)(2) allowed publicly owned treatment works (“POTWs”) that were experiencing delays in construction to seek extensions of the compliance deadlines. Section 122.21(n)(2) set a deadline of August 3, 1987 for POTWs to apply for an extension. Section 122.21(m)(3) allowed point source dischargers to seek their own extensions of treatment requirement deadlines in the event the POTW into which the source was to discharge was experiencing delays in construction. Section 122.21(m)(3) set a deadline of January 30, 1988 for point source dischargers to apply for these extensions. Because both of these dates have passed, these two regulatory provisions are obsolete and are deleted by today’s rule.

In addition, 40 CFR Part 125 Subpart J (consisting of sections 125.90 through 125.97) sets forth the criteria for issuing these CWA section 301(i) extensions of time to POTWs and point source dischargers. Because these extensions are no longer available, this provision too is obsolete and is deleted by today’s rule.