ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7048–8]

Unregulated Contaminant Monitoring Regulation for Public Water Systems; Amendment to the List 2 Rule and Partial Delay of Reporting of Monitoring Results

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the U.S. Environmental Protection Agency to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. In fulfillment of this requirement, EPA published Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for public water systems on September 17, 1999 (64 FR 50556), March 2, 2000 (65 FR 11372) and January 11, 2001 (66 FR 2273), which included lists of contaminants for which monitoring was required or would be required in the future. EPA is taking direct final action to correct an omission in the January 11, 2001, List 2 UCMR concerning laboratory certification. This correction will automatically approve laboratories of public water systems, that are certified to conduct compliance monitoring using Method 515.3, to also use Method 515.4 for UCMR analyses. Additionally, EPA is delaying requirements for the electronic reporting of unregulated contaminant monitoring results until its electronic reporting system is ready to accept data. The January 11, 2001, List 2 UCMR requires certain public water systems to start reporting the results of their unregulated contaminant monitoring to EPA electronically by July 1, 2001. This rule notifies such public water systems that the electronic reporting system that EPA is developing to accept monitoring data is not ready and that EPA is removing the reporting requirement until it is available. This action does not delay or suspend the implementation of any of the requirements of the Unregulated Contaminant Monitoring Regulations for sample collection and analysis on the previously established schedule.

DATES: This rule is effective on November 5, 2001, without further notice, unless EPA receives adverse comment by October 4, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. For judicial review purposes, this final rule is promulgated as of 1 p.m. ET on September 18, 2001 as provided in 40 CFR 23.7.

ADDRESSES: Please send an original and three copies of your comments and enclosures (including references) to docket number W–00–01–III, Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Ave., NW Washington, DC 20460. Hand deliveries should be delivered to EPA's Water Docket at 401 M. St., Room EB57, Washington, DC. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to *ow-docket@epamail.epa.gov.* Electronic comments must be submitted as a Word Perfect (WP) WP5.1, WP6.1 or WP8 file or as an ASCII file, avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–00–01–III. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this rule may be filed online at many Federal Depository Libraries.

The record for this rulemaking has been established under docket number W–00–01–III and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M, Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Charles Job (202–260–7084) or Jeffrey Bryan (202–260–4934), Drinking Water Protection Division, Office of Ground Water and Drinking Water (MC–4607), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. General information about UCMR may be obtained from 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.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

The regulated entities are public water systems. All large community and non-transient non-community water systems serving more than 10,000 persons are required to monitor under the UCMR. 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. Only a national representative sample of community and non-transient non-community systems serving 10,000 or fewer persons are required to monitor under the UCMR. Transient non-community systems (i.e., systems that do not regularly serve at least 25 of the same persons over six months per year) are not required to monitor. States, Territories, and Tribes, with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples and are regulated by this action. Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities	NAICS
State, Territorial and Tribal Governments.	States, Territories, and Tribes that analyze water samples on behalf of public water systems required to conduct such analysis; States, Territories, and Tribes that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

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 of that could potentially be

regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Purpose of this Action

The purpose of this action is to correct an omission in the revised Unregulated Contaminant Monitoring Regulation (UCMR) and to delay the requirement to electronically report to EPA until EPA's electronic reporting system is ready to receive data. The revised UCMR was published in the **Federal Register** on September 17, 1999 (64 FR 50556), and supplemented on March 2, 2000 (65 FR 11372) and January 11, 2001 (66 FR 2273).

At § 141.40 (a)(5)(ii)(G)(1), EPA intended to provide automatic certification to laboratories of public water systems that are already certified to use EPA Method 515.3 to also use EPA Method 515.4 for unregulated contaminant monitoring analysis. Four analytical methods have been previously approved for the analysis of dimethyltetrachloroterephthalate acid (DCPA) degradates in UCMR monitoring. Three of these methods, EPA Methods 515.1, 515.2, and 515.3 are currently approved for drinking water compliance monitoring. A regulation has not yet been promulgated to approve EPA Method 515.4 for drinking water compliance monitoring. Since all other UCMR methods are currently approved for compliance monitoring, EPA stated in the January 11, 2001 UCMR preamble that laboratories certified to conduct compliance monitoring using these methods are automatically approved to conduct UCMR analysis using Method 515.4. The January 11, 2001 UCMR promulgated Method 515.4 for UCMR monitoring but failed to specify how laboratories would be certified to conduct analysis using Method 515.4.

As discussed in the January 11, 2001 UCMR, EPA developed a revised version of EPA Method 515.3, titled EPA Method 515.4, which includes a wash step following hydrolysis. Method 515.4 was developed to eliminate the need for laboratories using Method 515.3 to reanalyze positive samples. Since Method 515.4 is procedurally the same as Method 515.3 except for the addition of a wash step, EPA is adding a sentence approving laboratories use of Method 515.4 if they are currently certified to perform compliance monitoring using Method 515.3.

In addition, EPA is also amending the January 11, 2001, UCMR to delay reporting of unregulated contaminant monitoring data to EPA until EPA's electronic reporting system is ready to receive the data. Section 141.35(c) of the January 11, 2001, UCMR requires the following reporting from public water systems subject to UCMR monitoring:

> (c) *When must I report monitoring results?* You must report the results of unregulated contaminant monitoring within thirty (30) days following the month in which you received the results from the laboratory. EPA will conduct its quality control review of the data for sixty (60) days after you report the data, which will also allow for quality control review by systems and States. After the quality control review, EPA will place the data in the national drinking water contaminant occurrence database at the time of the next database update. *Exception: Reporting of monitoring results to EPA received by public water systems prior to June 30, 2001, must occur between July 1 and September 30, 2001.* (Italics added.)

Public water systems must report these monitoring results to EPA electronically, as required in § 141.35(e).

EPA was not able to have its electronic reporting system ready for reporting by July 1, 2001, as originally planned. Establishing a new information system for these results was more complex than EPA anticipated. The complexities of establishing a new information system for monitoring data that provides Internet based reporting include: use of a modern computer language not previously used by EPA information systems in a complex reporting structure; new reporting arrangements from laboratories directly to EPA, with electronic approval capability for public water systems and viewing rights for States and EPA; a new data exchange portal (EPA's Central Data Exchange—CDX); new security checks through CDX with subsequent testing; and, development of appropriate user guidance.

Therefore, the affected regulated public water systems will not be able to comply with the requirements for reporting of unregulated contaminant monitoring results to EPA because the electronic reporting system is not operational. EPA, in this action, is delaying the current UCMR requirement to electronically report to the EPA. EPA anticipates that the electronic reporting system will be ready in two to three months. As soon as EPA knows for sure when the electronic reporting system will be available, EPA will undertake a rulemaking to specify the new electronic data submission date for data collected since January 1, 2001.

EPA reiterates that this rule does not suspend the implementation of any of the Unregulated Contaminant Monitoring Regulations for sample collection and analysis on the previously established schedules.

II. 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 Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 rule is not subject to Executive Order 13045 because it is not ''economically significant'' under Executive Order 12866, nor does it concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

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

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no additional enforceable duty on any State, local or Tribal governments or the private sector. This rule does not change the costs to State, local, or Tribal governments as estimated in the final revisions to the Unregulated Contaminant Monitoring Rule (64 FR 50556, September 17, 1999; 65 FR 11372, March 2, 2000; and 66 FR 2273, January 11, 2001) because the rule approves laboratories for monitoring with EPA Method 515.4, and delays reporting of results to EPA until EPA's electronic reporting system is ready to accept data. The lab approval will not incur any additional costs to laboratories, and instead allows for an additional method to be used when analyzing for DCPA acid degradates. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

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

D. 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 rule makes minor revisions to the Unregulated Contaminant Monitoring Rule. 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 response 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.

E. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice-and-comment rulemaking requirement 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 for the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. secs. 601(3)–(5). In addition to 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 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 for all three categories of small entities in the **Federal Register**, (63 FR 7620, February 13, 1998) requested public comment, consulted with SBA regarding the alternative definition as it relates to small businesses, and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this regulation as well.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule makes two minor revisions to the January 11, 2001 UCMR and imposes no additional enforceable duty on any State, local or Tribal governments or the private sector. It merely approves laboratories to conduct UCMR monitoring using EPA Method 515.4, and delays reporting of results to EPA until the EPA electronic reporting system is ready to accept data. The lab approval revision will not increase laboratory costs. It allows for an additional method to be used when analyzing for DCPA acid degradates.

F. National Technology Transfer and Advancement Act

Section 12 (d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 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.

EPA's use of voluntary consensus standards in the UCMR program and approval of Method 515.4 was addressed in the September 1999 and January 2001 rulemakings (64 FR 50608 and 66 FR 2298). This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Executive Order 12898—Environmental Justice Strategy

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency missions by directing agencies to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's rule makes two minor changes to the January 11, 2001 UCMR, and does not alter the regulatory impact of those regulations.

H. 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 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. Today's rule makes two minor changes to the January 11, 2001 UCMR, approving laboratories currently certified to conduct analyses using EPA Method 515.3 to use EPA Method 515.4 for UCMR analysis, and delaying reporting of results to EPA until the EPA electronic reporting system is ready to accept data. There is no cost to State and local governments, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

I. 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 6, 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 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. Today's rule makes minor changes to the January 11, 2001 UCMR. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

This rule is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

K. Administrative Procedure Act

EPA is publishing this rule without prior proposal because it views this as a noncontroversial amendment and anticipates no adverse comment. EPA does not anticipate adverse comment because this rule provides labs with another Method to perform analyses at no cost to them, as well as delays the need for applicable public water systems to report monitoring data, again, at no cost to the public water systems. However, in the ''Proposed Rule'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for the correction to the Unregulated Contaminant Monitoring Regulation for Public Water Systems if adverse comments are filed. This rule will be effective on November 5, 2001 without further notice unless EPA receives adverse comment by October 4, 2001. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. § 804(2). This rule will be effective on November 5, 2001.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indian

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

Dated: August 28, 2001.

Christine Todd Whitman,

Administrator.

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

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

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

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

2. Section 141.35 is amended by revising the last sentence in paragraph (c) to read as follows:

§ 141.35 Reporting of unregulated contaminant monitoring results.

* * * * *

(c) * * * Exception: Reporting of monitoring results to EPA is not required until EPA's electronic reporting system is operational; EPA will provide notice of applicable reporting deadlines in a future rulemaking.

* * * * *

3. Section 141.40 is amended by adding a sentence to the end of paragraph (a)(5)(ii)(G)(*1*) to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(5) * * *

(ii) * * *

(G) * * *

(*1*) * * * Laboratories certified under § 141.28 for compliance analysis using EPA Method 515.3 are automatically approved to conduct UCMR analysis using EPA Method 515.4.

* * * * *

[FR Doc. 01–22114 Filed 8–29–01; 2:33 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 96

Tobacco Regulation and Maintenance of Effort Reporting Requirements for Substance Abuse Prevention and Treatment Block Grant Applicants

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Interim final rule.

SUMMARY: This interim final rule clarifies that States may no longer obtain extensions to submit the maintenance of effort (MOE) information required under section 1930(c) of the Public Health Service (PHS) Act; separates the annual report required under section 1926(b)(2)(B) (hereinafter referred to as the Synar report), of that Act, from the Substance Abuse Prevention and Treatment (SAPT) Block Grant application; and establishes a deadline for submission of the Synar report of no later than December 31 of the fiscal year for which a State is applying for a grant.

DATES: *Effective Date:* September 4, 2001.

Comment Date: The Secretary is requesting written comments which must be received on or before November 5, 2001.

ADDRESSES: Written comments on this interim final rule must be sent to David Robbins, Acting Director, Division of State and Community Systems Development, Center for Substance Abuse Prevention (CSAP), Rockwall II Building, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David Robbins, telephone no. (301) 443–0369.

SUPPLEMENTARY INFORMATION: States are required under sections 1930(c) and 1932(a)(5) of the PHS Act and 45 CFR 96.122(d) to submit to the Secretary maintenance of effort information regarding State expenditures. The required MOE information must be sufficient to make a determination of whether the principal agency for substance abuse services maintained aggregate State expenditures for these activities at a level not less than the average level of such State expenditures for the two year period preceding the fiscal year for which the State is applying for a grant. The MOE information is required, by statute, to be submitted as a part of the SAPT Block Grant application.

In SAMHSA's recent reauthorization, Pub. L. 106–310 (Oct. 17, 2000), Congress established a receipt date for the SAPT Block Grant application of October 1 of the fiscal year for which a State is seeking Federal funds. Previously, the SAPT Block Grant application due date was established by regulation and the States were permitted by regulation to receive an extension allowing them to submit the MOE information no later than December 31. See former 45 CFR 96.122(d). However, because the statute now requires States to submit their SAPT Block Grant applications by October 1 and there is no authority for the Secretary to extend the deadline for submission of the MOE information, this rule clarifies that States must submit such information by October 1 and may no longer obtain extensions of that deadline. This clarification is merely a technical change to make the regulation consistent with what is explicitly required by statute.

With regard to the Synar report, States are required under section 1926(b)(2)(B) of the PHS Act and 45 CFR 96.130(e) to annually submit to the Secretary a report describing, among other things, their efforts to enforce youth tobacco access laws and success during the previous fiscal year for which the State is applying for a grant. The Synar report is currently required, by regulation only, to be submitted as part of the SAPT Block Grant application.

As mentioned above, in SAMHSA's recent reauthorization, Congress established a receipt date for the SAPT Block Grant application of October 1 of the fiscal year for which a State is seeking Federal funds. Previously, by regulation, the States were permitted to receive an extension allowing them to submit the Synar report by no later than December 31. See 45 CFR 96.122(d).

A number of States informed SAMHSA that they required additional time beyond October 1 to complete their Synar reports and would not be able to meet the statutory due date of October 1; thus would be in jeopardy of losing their SAPT Block Grant funding.

Many States need the later due date for the Synar report because they rely on youth to perform a central function in the work required for compliance with the program; that is, these youth attempt to buy, under adult supervision, tobacco products from tobacco outlets to determine retailer compliance with State laws. These youth inspectors are only available to many of the States during the summer school recess. Without a rule change, States have essentially one month to collate data, complete data analysis and report on the results by the new October 1 SAPT Block Grant application deadline. Providing States the opportunity to continue to submit their Synar reports as late as December 31 ensures that all States will have the necessary time to meet the Synar reporting requirements, thus enabling them to receive their SAPT Block Grant funds.

Because of the burden on States, the Department is changing the rule to separate the Synar report from the SAPT Block Grant application and to require that the Synar report be submitted no later than December 31 of the Federal