

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GUIDANCE FROM HOTLINE COMPENDIUM

WSG H37

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SUBJECT: State Primacy over Federal Facilities

SOURCE: James Bourne
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Requirements for States with primary enforcement responsibility are found under 40 CFR section 142. How do these requirements apply to the oversight of Federal facilities located within the boundaries of a State with primacy?

Response:

If a State has primacy for public water systems, even if State regulations are more stringent, the State has primacy over federal facilities. The 1977 SDWA Amendments, section 1447, added language providing that, subject to a national security exemption, each Federal Agency shall be subject to, and comply with, all Federal, State, and local requirements, and administrative authorities. To support this change in prior policy the congressional committee stated the following "... Furthermore, the committee intends that Federal agencies comply with State, and local drinking water requirements and regulations which are more stringent than the primary drinking water standards."

A state with primacy does not have jurisdiction over Indian Lands due to the Indian status as "sovereign nations;" they have treaties with the United States. Therefore, the federal government has jurisdiction over PWSs on Indian lands.