



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

WSG 183

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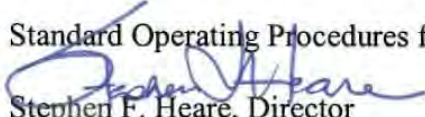
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OFFICE OF
WATER

MEMORANDUM

3/11/10

SUBJECT: Standard Operating Procedures for EPA's Tribal Drinking Water Program

FROM: 
Stephen F. Heare, Director
Drinking Water Protection Division
Office of Ground Water and Drinking Water

TO: Regional Drinking Water Program Managers
Regions I, II, IV - X

Consumers of public drinking water supplies in Indian country should be afforded the same health protection as consumers served by public drinking water supplies outside of Indian country. Until a tribe obtains primary enforcement responsibility for the Public Water Supply Supervision (PWSS) Program, EPA directly implements the PWSS program in Indian country. To date, only the Navajo Nation has received primacy; therefore, EPA Regional offices administer the program for the rest of Indian country.

This memo reiterates the standard operating procedures for EPA's PWSS program in Indian country. While the national water program has always expected EPA Regions to follow the same requirements and guidelines as authorized state PWSS programs, the Office of the Inspector General (OIG) Report entitled, "EPA Assisting Tribal Water Systems but Needs to Improve Oversight" (No. 08-P-0266, September 16, 2008), found inconsistent implementation among Regions. The OIG report recommended that the Office of Water establish national standard operating procedures for EPA's Tribal drinking water program. Consequently, this memo formally identifies the EPA Regions' responsibility for the Tribal drinking water program.

To ensure that consumers of public water supplies in Indian country receive the same level of health protection as provided to other consumers, EPA Regions should:

- Follow the primacy agency implementation guidance that are issued with each National Primary Drinking Water Regulation (NPDWR);

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- Retain records as required by 40 CFR 141.33 and consistent with the primacy agency implementation guidances and the timelines specified in 40 CFR 142.14;
- Follow the principles outlined by the "EPA Policy for the Administration of Environmental Programs on Indian Reservations" (Ruckelshaus, November 8, 1984) when carrying out responsibilities in Indian country;
- Follow established EPA enforcement policies when responding to violations at PWSs in Indian country as referenced by "Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy" (Herman, January 17, 2001); "Questions and Answers on the Tribal Enforcement Process" (Smith, April 17, 2007); and "Enforcement at Public Water Systems in Indian Country" (McCabe, March 31, 2009). When responding to violations, Regions should consult with the Office of Enforcement and Compliance Assurance to issue formal enforcement actions when necessary;
- Enter all violations into EPA's SDWIS database, as specified in the primacy agency implementation guidance;
- Document waiver determinations made by the Region and, where appropriate, waiver determinations made by states that the Region uses in its program implementation;
- Document any variances and exemptions granted to public water systems in Indian country;
- Document the roles, contractual relationships, and agreements between EPA and tribes regarding the direct implementation of drinking water programs in Indian country; and
- Ensure that certified operators meet the criteria for being qualified as detailed in the EPA Tribal Drinking Water Operator Certification Program Guidelines (EPA 816-R-05, May 2005) and the Tribal Operator Certification Program document (EPA 816-B-09-002, August 2009).

If you have any questions, please contact me, or have your staff call Kyle Carey at (202) 564-2322. I appreciate your continued efforts to ensure the highest level of human health and environmental protection in Indian country.