

Date Signed: June 1990

MEMORANDUM

SUBJECT: Transmittal of the Final Handbook for State Program Revisions Under the New Primacy Regulation

FROM: Michael B. Cook, Director
Office of Drinking Water

TO: Water Management Division Directors
Regions I - X

Attached is the final version of the handbook entitled, "Handbook For EPA Review of State Program Revisions Under New Primacy Regulations For the PWSS Program.TM The handbook supports implementation of the new primacy regulations for all future State program revisions, starting with the surface water treatment and the total coliform rules promulgated June 29, 1989.

The handbook describes the: extension process; Attorney Generals statement; procedures for updating EPA reviews of primacy revisions; withdrawal process; use of crosswalks and checklists; and the way the two-step review process will work. While some of this material may be familiar to you after having worked through the VOCs/PN revision process, some procedural changes have been made that should make the revision process more efficient. This handbook will help alleviate some of the procedural problems that we encountered during the VOCs/PN revision process.

The comments we received from your staff and the other regions on this handbook were very useful in helping us produce a better, more supportive document. With a few exceptions, most comments were incorporated in the final product.

A consistent theme among the regions was the desire for a reduction in ODW's involvement in the primacy application revision process. While we must maintain a strong role, I agree that ODW's role can be reduced. ODW will continue to conduct one detailed State review in each region for each regulation. However, we will no longer ask the regions to send ODW all of the documentation for the non-detailed reviews that was required for the VOCs/PN reviews. Headquarters will maintain the right to conduct additional State reviews in the event that we feel it is necessary.

For the non-detailed reviews, ODW will no longer request copies of the crosswalk, checklist, or regulations. Instead, ODW and OE (formally OECM) will waive concurrence on all non-detailed reviews in one memo for each region, after completion of the detailed review in that region. OGC has stated that they will continue to concur on the ORC's concurrence (after ORC—s full review). ODW will work out a procedure with OGC to have OGC—s-memo sent directly to

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

the region. For the non-detailed review process, ODW will only become involved with OGC if the regions are having a problem communicating with them.

A second item of importance to the regions concerned the problems associated with getting the ORC's to review the primacy revision packages. We are currently working with OGC on this issue, stressing the need for increased cooperation from the ORC-s in completing their reviews expeditiously.

A timely review is critically important, particularly in light of the 90 day review requirement found in Section 142.12(a)(1). The regulation allows EPA 90 days to review the revision package once the region considers a submission to be complete. The region is to notify the State when a revision package submission is considered complete. After the 90 day review period, the region is required to notify the State in writing of EPA's decision to approve or disapprove the submission, with an explanation given if the package is not approved. This notification is mandatory.

A third issue which you should be aware of concerns the role of headquarters in the extension process. Regions will be responsible for deciding when and under what conditions States will receive extensions. The systems must be meeting the requirements of the Federal regulation by the eighteenth month, and either the State or the region must be operating the supervision program during the extension period.

Headquarters will advise the regions on specific extension applications, upon request, on a State-by-State basis. Headquarters is currently working on a delegation agreement which will allow the Regional Administrator to sign off on all delegation agreements on behalf of the Administrator.

If you have any questions please call me at FTS 382-5543 or have your staff call Jamie Bourne. He can be reached on FTS 382-5557.

Attachment

cc. P. Cook
ODW Division Directors

**HANDBOOK FOR EPA REVIEW OF
STATE PROGRAM REVISIONS
UNDER NEW PRIMACY REGULATIONS
FOR THE PWSS PROGRAM**

FINAL

JUNE 1990

**U.S. Environmental Protection Agency
Office of Drinking Water
(202)-382-5522**

**HANDBOOK FOR EPA REVIEW OF PROGRAM REVISIONS
UNDER NEW PRIMACY REGULATIONS**

TABLE OF CONTENTS

<i>SECTION</i>	<i>PAGE</i>
PART 1 INTRODUCTION	1-1
PART 2 THE APPROVED PRIMACY PROGRAM	2-1
PART 3 CONTENTS OF PROGRAM REVISION REQUEST'S	3-1
PART 4 THE PROGRAM REVISION PROCESS	4-1
PART 5 THE EXTENSION PROCESS	5-1
PART 6 THE ANNUAL PROGRAM PLANNING AND REVIEW PROCESS	6-1
PART 7 THE PROGRAM WITHDRAWAL PROCESS	7-1

APPENDICES

- A. Checklist of Program Elements
- B. Primacy Revision Crosswalk-Sample Format
- C. Model of Attorney General's Statement
- D. Public Notice

LIST OF TABLES AND FIGURES

<i>TABLE</i>	<i>PAGE</i>
Table 1.1 - Summary and Status of EPA Regulatory Actions Under the SDWA Amendments Enacted June 19, 1986	1-1
Figure 1.1 - Review Process of State Request for Approval of Program Revision	1-3
Table 1.2 - Summary of -Changes to Program Revisions Process	1-5
Table 2.1 - The Approved Primacy Program	2-2
Table 4.1 - Timetable for Requests for Approval	4-3
Figure 4.1 - Public Notice Process and Schedule	4-7
Figure 5.1 - The Extension Process	5-2
Table 5.1 - Circumstances Supporting Extension Requests	5-3
Figure 5.2 - Extension Request Checklist	5-5
Table 7.1 - Overview of Primacy Withdrawal Process in 40 CFR 142.17(a)(2), (3), and (4)	7-2

NOTICE: This document provides EPA's guidance on the Agency's review of State program revisions under the Public Water Supply Program. The guidance does not establish or affect legal rights or obligations. It does not establish a binding norm and is not finally deterministic of the issues addressed. Agency decisions in any particular case will be made applying the law and regulations on the basis of specific facts and actual actions.

PART 1 - INTRODUCTION**THIS GUIDANCE WILL AID REGIONAL
IMPLEMENTATION OF NEW
PRIMACY REVISION PROCESS**

On November 30, 1989, the EPA Administrator promulgated revised State primacy regulations under Subpart B, Part 142, formally establishing for the first time the requirements and procedures States must follow to request EPA approval of program revisions to approved State primacy programs. The revised regulations appeared in the Federal Register on December 20, 1989, at 54 FR 52126. This document provides guidance to the Regions on implementing the new program revision process.

Currently, all but two States, the District of Columbia, and the Indian lands have primacy for the Public Water System Supervision (PWSS) program. The 1986 Safe Drinking Water Act (SDWA) amendments greatly increased the scope and content of the PWSS program. States will have to adopt all new and revised EPA regulations to retain primacy.

The amendments require EPA to promulgate standards for 83 drinking water contaminants by 1989, 25 more by 1991, and 25 additional contaminants every three years thereafter. EPA also must specify criteria under which filtration is required as a treatment technique for public water systems that use surface water and to require disinfection for all systems. Public notification requirements had to be modified, too. Table 1.1 lists the new requirements and the promulgation schedule, which is driven by the 1986 amendments. States will have 18 months from the date the regulation is promulgated to submit a final request for approval of their revised primacy program.

**TABLE 1.1 - SUMMARY AND STATUS OF EPA REGULATORY ACTIONS
UNDER THE SDWA AMENDMENTS ENACTED JUNE 19, 1986**

Requirement	Citation
Final Actions to Date	
Volatile Organic Compounds	52 FR 25690, July 8, 1987
Public Notification	52 FR 41534, October 28, 1987
Filtration and Disinfection of Surface Water	54 FR 27486, June 29, 1989
Total Coliforms	54 FR 27544, June 19, 1989
Proposed Actions to Date	
Lead/Copper	54 FR 31516, August 28, 1988
Inorganics/Synthetic Organics (38 compounds)	54 FR 22062, May 22, 1989
Additional Contaminants to be Regulated	
Radionuclides	
Additional Inorganics/Synthetic Organics (25 contaminants)	
Disinfection for Groundwater/Disinfection By-products 1 st	
Additional 25 Contaminants in 1991	
Additional NPDWRS in 1994 and Every Three Years Thereafter	

Date Signed: June 1990

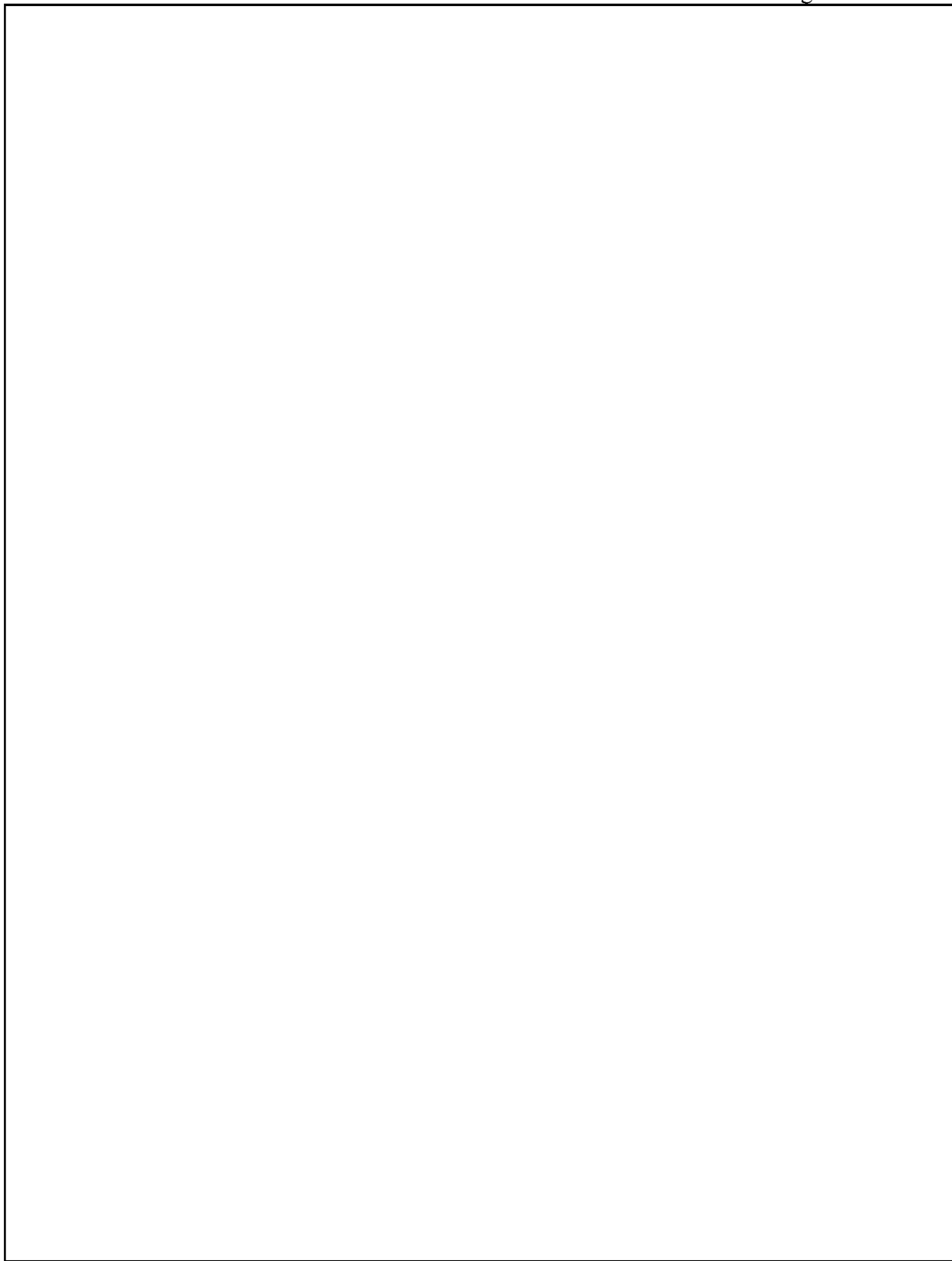
**A NEW REGULATORY PROCESS
HAS BEEN ESTABLISHED**

The new 142.12 establishes regulatory requirements, application procedures and decision process for State program revisions. Figure 1.1 presents a diagram of the process and the associated timing of various aspects of the process. In essence, when EPA promulgates a new or revised National Primary Drinking Water Regulation (NPDWR), States must review their current primacy program, and determine which program elements need to be revised. States must revise regulations or other program components by adopting regulations that are at least as stringent as the federally specified requirements, and submit a request to EPA for approval of the revised primacy program (142.12(a)). This request must be submitted within 18 months after promulgation of new or revised regulations unless the State requests and the Region approves an extension of up to two years (142.12(b)). Extensions will be approved if the State meets certain criteria and agrees to abide by conditions negotiated as part of the extension. Extension criteria and conditions are explained in Part 5 of this guidance.

The State request must include documentation needed to update the approved primacy program and identification of elements that have not changed (142.12(c)). Specifically, States must submit a checklist showing what program elements are updated by the request, a crosswalk comparing the new EPA requirements to the State version (the side-by-side comparison), materials that respond to any special primacy requirements under 142.16, and an Attorney General statement certifying the legality and enforceability of the State regulations (the AG's statement is not needed until the complete and final request is submitted). These materials are described in more detail in Part 3 of this guidance.

EPA's review process is specified in 142.12(d). A two-step process, described in Part 4 of the guidance, is allowed by the regulation and encouraged by EPA to help States respond to the requirements by providing an early review and tentative determination in response to the State's preliminary request, followed by an expedited review of the final request. State regulations and program materials may be in draft form for the preliminary review, while complete and final materials are required for the final request. EPA's tentative determination on the preliminary request will include comments or suggestions for the State's use in developing its final request.

EPA is to act on the State's final request for approval of a program revision within 90 days. EPA's determination of primacy status is subject to public notice and hearing procedures specified in 142.13.



Date Signed: June 1990

**CHANGES TO THE CURRENT PROGRAM
REVISION PROCESS ARE FAR-REACHING**

The revised primacy rule establishes the timing, process, and contents of the State request for approval of all program revisions to adopt new and revised NPDWRS. The revised primacy rule requirements do *not* apply to the public notification regulations, promulgated on October 28, 1987, nor to the VOCs regulations, promulgated on July 8, 1987, since these regulations were in effect before the revised primacy requirements were promulgated. However, a State has the option to apply this rule to VOCs and PN if they choose to do so. The new requirements are to be followed for the Surface Water Treatment Rule and Total Coliform Rule, as well as all future NPDWRS.

The changes to the current program revision process mandated by the new primacy regulation are summarized in Table 1.2.

The basic primacy requirements in the original regulation were left unchanged, except for two modifications: 1) States must agree to report new violations and State enforcement actions to EPA on a quarterly, rather than annual, basis; and 2) for States with variances, the regulation requires the State to adopt the Administrator's determination of best available technology (BAT) in the State variance requirements (a third modification, very minor, describes the State emergency plan requirement can be met for groundwater sources through the State wellhead protection program's contingency plan. These new requirements apply to State program revisions and to. States applying for initial primacy).

The preamble to the revised rule also reaffirms the Region's authority to request States to submit materials on a one-time basis to build a complete and updated file of the approved primacy program. These materials serve as the baseline "agreement" with the State before reviewing program revisions.

CONTENTS OF THE GUIDANCE

The remainder of the guidance is divided into six parts, outlining each major component of the program revision process. The guidance includes a variety of checklists and other aids for managing the primacy review process. These checklists are included in the text where appropriate and others are provided in an appendix for ease in copying them for day-to-day use.

The guidance has been prepared in a loose-leaf-notebook format so that it can be updated easily to reflect the changes necessary for each new program requirement. Updates will be provided as appropriate.

**TABLE 1.2 - SUMMARY OF CHANGES TO
PROGRAM REVISION PROCESS**

Full Primacy and Deadlines.	States must adopt all new and revised EPA NPDWR's within 18 months of promulgation to retain primacy, unless EPA grants an extension, not to exceed two years, for cause. States that exceed the 18-month deadline without an approved extension are subject to initiation of primacy withdrawal procedures.
Extension Process.	The new regulation requires the State to request EPA approval of an extension <i>before</i> the 18-month period passes, based on extension criteria in the regulation. The State must agree to meet certain conditions during the extension period to be eligible for the extension.
Update to the Approved Primacy Program.	The new regulation defines for the first time the ~approved primacy program TM at the time the program revision is requested. States must submit materials sufficient to update the approved primacy program with their request for EPA approval of each program revision and otherwise keep EPA informed of changes to the approved program.
Crosswalk and Checklist.	The new regulation specifies that the States submit a side-by-side demonstration with each State request for program revision that the State meets all EPA primacy requirements under ~142.10, including that the State regulations are ~no less stringent. TM A completed checklist of the elements of the approved primacy program and crosswalk of each federal NPDWR to the State regulations must be submitted with each State request.
Attorney General Certification.	The new regulation requires an Attorney General's statement with the complete and final State request, certifying that the State statutes and regulations for the program revision are legally adopted and enforceable.
Two-Step Process for EPA Review.	The new regulation allows States, at their option to submit a Review preliminary requests containing draft materials. This optional first step is intended to raise and resolve issues early in the process. The EPA final determination is based on the complete and final request and is subject to public notice and hearing (upon request).
Special Primacy Program Requirements and Reports.	The new regulation incorporates by reference the primacy requirements and special State reporting under the individual NPDWRS. These special primacy requirements must be met for EPA approval of the program revision.

PART 2 -THE APPROVED PRIMACY PROGRAM

Section 142.10 defines the requirements States must meet to obtain or retain primacy. These requirements are based on the five statutory requirements, as stated under Section 1413 of the SDWA:

- Adoption of State regulations that are no less stringent than federal requirements
- Adoption and implementation of enforcement procedures
- Recordkeeping and reporting
- Variances and exemptions
- Planning for provision of safe water in emergencies

Section 142.10 includes 15 requirements within the five statutory categories. Section 142.11(a) defines the materials States were required to submit with their initial application for primacy. The 142.11(a) materials comprise the "approved primacy program."

Although States do not have to reapply for primacy when program revisions are needed, before the Region can begin reviewing revised State primacy programs, the current approved primacy program materials must be complete and readily available. Table 2.1 lists those program materials as they relate to the 142.10 requirements.

The approved primacy program defines the "contract" between the primacy State and EPA. Regions will need to review and update their files on approved State primacy programs to define the baseline from which program reviews will be made. This can be accomplished with the State through the annual review process (142.17) or through the request for approval of program revisions, whichever comes first. Once the file has been updated, future program revision material can refer to this baseline.

Note: For States and Indian Tribes applying for primacy after the new primacy regulation is in effect, the application must include:

- An A-G statement that certifies that the laws and regulations adopted by the State or tribal ordinances to carry out the program were duly adopted and are enforceable [142.11(a)(6)];
- A checklist and crosswalk demonstrating adequate authority to meet the requirements of 142.10 [142.11(a)]; and
- Compliance with special primacy requirements defined for each new and revised NPDWR.

TABLE 2.1 - THE APPROVED PRIMACY PROGRAM*Requirement §142.10****Materials Needed to Fulfill Requirement
For Initial Primacy Approval [§142.11(a)]*****Adoption of Regulations No Less Stringent**

1	<i>Adoption of drinking water regulations which are no less stringent than the national primary drinking water regulations (NPDWRs) in effect. [40 CFR 142.10(a)]</i>	The text of the State primary drinking water regulations with reference to those program elements that vary from comparable federal regulations set forth in Part 142 and a demonstration that any different State regulation is at least as stringent as the comparable EPA regulations. [142.11(a)(1)]
2	<i>Maintenance of an inventory of public water systems. [40 CFR 142.10(b)(1)]</i>	A description of the State program to maintain current inventories of PWSs. [142.11(a)(2)(i)] Note waivers in 142.11(a)(3)(i) and (ii).
3	<i>Systematic program for conducting sanitary surveys of public water systems in the State, with priority given to sanitary surveys of public water systems not in compliance with State drinking water regulations. [40 CFR 142.10(b)(2)]</i>	A description of the State program to conduct sanitary surveys and system for setting priorities. [142.11(a)(2)(ii)]
4	<i>Establish and maintain a State program to certify laboratories conducting analytical measurements of contaminants identified in State primary drinking water regulations. Designate a laboratory officer or officers certified by the Administrator that are responsible for the State's certification program. [CFR 142.10(b)(3)]</i>	A description of the State's certification program for analytical laboratories and listing of certified responsible officers. [142.11(a)(2)(iii)]
5	<i>Assurance of the availability of certified State laboratory facilities capable of performing analytical measurements of all contaminants specified in the State's primary drinking water regulations. [40 CFR 142.10(b)(4)]</i>	Identification of certified laboratory facilities and a statement of availability to perform required analyses. [142.11(a)(2)(v)]
6	<i>Establish and maintain activities to assure that the design and construction of new or substantially modified public water system facilities will be capable of compliance with the State primary drinking water regulations. [CFR 142.10(b)(5)]</i>	Description of State program activity to assure that design and construction of new or substantially modified PWS facilities will be capable of compliance with State requirements. [142.11(a)(2)(v)]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

Enforcement Procedures

- | | | |
|---|---|--|
| 7 | <i>Has adequate authority to apply State primary drinking water regulations to all public water systems in the State covered by NPDRs. [40 CFR 142.10(b)(6)(i)]</i> | Copies of statutes and regulations that provide for the regulation of all PW within the State and enforcement of State regulations, demonstrating adequate authority. [142.11(a)(2)(vi)] |
|---|---|--|

TABLE 2.1 (CONTINUED)

- | | | |
|----|--|---|
| 8 | <i>Has adequate authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of State regulations. [40 CFR 142.10(b)(6)(ii)]</i> | Description of State procedures for judicial action with respect to noncomplying PWSs. [142.11(a)(2)(vii)] |
| 9 | <i>Right to enter and inspect public water systems, including the right to take water samples, whether or not the State has evidence that the system is in violation of an applicable legal requirement. [40 CFR 142.10(b)(6)(iii)]</i> | Copies of State statutes and regulations that provide for enforcement of State regulations, showing the State's authority to enter and inspect PWSs. [142.11(a)(2)(vi)] |
| 10 | <i>Authority to require suppliers of water to keep appropriate records and make appropriate reports to the State. [40 CFR 142.10(b)(6)(iv)]</i> | Copies of State statutes and regulations that provide for enforcement of State regulations, showing the State's authority to require reporting. [142.11(a)(2)(vi)] |
| 11 | <i>Authority to require public water systems to give public notice that is no less stringent than EPA requirements in §142.32 and 142.16(a). [40 CFR 142.10(b)(6)(v)]</i> | Copies of State statutes and regulations that provide for enforcement of State public notice regulations. [142.11(a)(2)(vi)] |
| 12 | <i>Authority to assess civil or criminal penalties for violation of the State's primary drinking water regulations and public notification requirements, including the authority to assess daily penalties or multiple penalties when a violation continues. [40 CFR 142.10(b)(6)(vi)]</i> | Copies of State statutes and regulations that provide for enforcement of State regulations and a brief description of State procedures for administrative or judicial actions against PWSs not in compliance with current regulations. [142.11(a)(2)(vi)] |

Recordkeeping and Reporting

- | | | |
|----|--|---|
| 13 | <i>Has established and will maintain recordkeeping of its activities under paragraph §142.10(a), (b) and (d) in compliance with §142.10 and 142.15. [40 CFR 142.10(c)]</i> | A statement that the State will comply with reporting and recordkeeping requirements specified in 142.14 and 142.15. [142.11(a)(3)] |
|----|--|---|

Variances and Exemptions

Date Signed: June 1990

- 14 *If it permits variances or exemptions, or both, from the requirements of the State primary drinking water regulations, it shall do so under conditions and in a manner no less stringent than the requirements under sections 1415 and 1416 of the Act. [40 CFR 142.10(d)]*

The text of statutes and regulations that apply are no less stringent than Section 1415 and 1416 [142.11(a)(4)]

Emergency Planning

- 15 *Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances. {40 CFR 142.10(e)}*

A brief description of the State plan to provide safe drinking water under emergency conditions. Note that the contingency State-s wellhead protection program can be used [142.11(a)(5)]

PART 3 - CONTENT OF STATE PROGRAM REVISION REQUESTS

SPECIFIC MATERIALS MUST BE SUBMITTED

Section 142.12(c) of the final rule addresses the contents of a state's request for approval for changes to the approved primacy program.

The states are not being asked to 'reapply' for primacy, but rather to update their program to conform with new federal requirements. States must submit updated documentation for each program element of the approved primacy program that is affected by the revision. The text of the final rule specifies that the request for approval shall include (among other things) ~ the documentation necessary to update the approved state primacy program, with identification of those elements of the approved primacy program that have not changed because of program revision™ (40 CFR 142-11(c)(1)(i)). The documentation must include:

- A checklist identifying which program elements have and have not been affected by the revision;
- A side-by-side comparison or crosswalk of state and federal authorities;
- Additional materials required by each specific EPA regulation under ~142.16.
- For the final request for EPA approval of the program revision, an Attorney General (AG) statement certifying that the state's laws and regulations have been adopted and are enforceable.

These materials are discussed in the sections that follow.

The Checklist is a Table of Contents for the State Request

A simple checklist, provided in Appendix A, should be used by the state to indicate the program elements that are and are not changed in response to the revised federal regulation. In addition to the 15 program elements specified by ~142.10, the checklist includes the additional items that will be part of the state submission: the response to any special primacy requirements under ~142.16 and the Attorney General's statement (for final requests only).

For each item indicated as "applicable" on the checklist, appropriate materials must be provided. Such materials will include the text of state statutes and regulations that have been revised and descriptions and appropriate

Date Signed: June 1990

documentation of revised program elements. See Table 2.1 for an outline of the program elements and supporting materials in the approved primacy program subject to revision.

Date Signed: June 1990

Crosswalk Compares Federal and State Requirements

Part of the documentation required by § 142.12(c) is a comparison of federal requirements and state authorities. The comparison should cite statutes, regulations, and judicial decisions as appropriate to demonstrate that the state's authority is adequate to meet the requirements of the primacy program elements (§ 142.10).

Sample charts provided in Appendix B can be used as a basis for the required comparison. The crosswalk forms (first page only) include general primacy requirements (40 CFR 141), recordkeeping and reporting (§ 142.14 and 142.15), and special primacy requirements (§ 142.16). For each new or revised NPDWR, Headquarters will develop a form outlining the federal requirements to aid the states in completing this requirement. Each form lists the federal requirements and citation and provides space for the state citation and comments or reference to supporting materials or explanation.

Recordkeeping and Reporting and Special Primacy Requirements Must be Met

New recordkeeping and reporting requirements have been specified by § 142.14 and § 142.15. These new requirements may result in state program revisions to meet the conditions of new or revised NPDWRs. Appropriate documentation will be needed and should be indicated on the crosswalk form (see Appendix B). Section 142.16 will include requirements specific to each NPDWR or other program revision. Specific guidance will be provided on what needs to be included in the State primacy program revision process as each new regulation is developed and promulgated. A sample crosswalk form for special primacy requirements is included in Appendix B.

The Attorney General's Statement Certifies Enforceability

In addition to the checklist and crosswalk, 40 CFR 142.12(c)(iii) specifies that a complete and final state request must include a statement by the state Attorney General (or the attorney for the state primacy agency if it has independent legal counsel as defined in § 142.12(c)(iii)) certifying that the laws and regulations of the state promulgated to adopt the specific NPDWR were duly adopted and are enforceable to carry out the requirements of the cited NPDWR. The independent counsel must be able to represent the agency in court. The Region may require further involvement by the Attorney General where necessary to resolve primacy issues. Any required supplemental statement must address all issues concerning adequacy of state authorities identified in EPA's review. Program revision requests will require an Attorney General's statement unless specifically waived by the Administrator on a rule-by-rule basis.

The Attorney General statement is required to secure the opinion of the official charged by the State with enforcing the laws of the State. The Attorney General statement is a central part of a State's final request for approval of revisions to the approved primacy program. EPA will rely on the certification by the Attorney General that there are no legal barriers to State enforcement of the new State regulations as reviewed by EPA.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

EPA does not require any specific format for the Attorney General's statement; however, a model Attorney General statement is provided in Appendix C.

Preliminary requests for approval of program revisions need not include an Attorney General's statement; however, these requests must include all other materials outlined above in draft form.

PART 4 - THE PROGRAM REVISION PROCESS**NEW AND REVISED NPDWRS WILL
REQUIRE REVISION OF STATE PROGRAMS**

Section 142.12(d) of the final rule details the process that EPA and the States must undertake for State adoption of new and revised NPDWRS.

The Section 142-12 process for States to request EPA approval of State program revisions applies only to State revisions that adopt new or revised EPA regulations. It does not apply where a State initiates a change in its primacy program unrelated to an EPA regulatory change.

A TWO-STEP PROCESS IS PREFERRED (but is not required)

The approval of State program revisions is recommended to be a two-step process culminating in a complete and final submission within 18 months after promulgation of new or revised EPA regulations. See Figure-2.1 for a diagram of the two-step process and the timing of State submittal and EPA review. These steps as described in 142.12(d)(1) and (2) are:

- ***Submission of a preliminary request to EPA for review by the Region*** (Optional). At the State's option, the State may submit a preliminary request for EPA review and tentative determination. The request should contain a draft of all materials required by 142.12(c)(i) to demonstrate compliance with federal standards, except that a draft AG's statement need not be submitted. EPA will make a tentative determination of whether the State primacy program application meets applicable requirements.
- ***Submission of a complete and final request for approval***. In accordance with 142.12(c)(1) and (2), this submission must be complete and final, and must include the Attorney General's statement. The State also must include the State's response, to the review comments and/or program deficiencies identified in the tentative determination (if a preliminary request was submitted). EPA will approve or disapprove the State primacy program.

The contents of a request for approval of program revisions are discussed in Part 3 of this guidance.

The State and the Region should agree to a process and schedule for completing the requirements for primacy as soon as possible after promulgation of each new or revised NPDWR ideally within three months. The Agreement should address questions such as: Will the State submit a preliminary request for approval?; What is it likely to contain?; If no preliminary request is planned, what steps will the State take to ensure that its final request will be adequate and approvable?; and when will the final application be submitted?

Date Signed: June 1990

States should be encouraged to share draft materials with EPA on a regular basis prior to the initiation of a formal preliminary request to determine what materials may be deficient or lacking.

Table 4.1 illustrates the timing of State and EPA actions and responsibilities during the review process. The Region and each State should develop a schedule for the program revision process within three months of the promulgation of each NPDWR.

States should be made aware that submission of only a final request for approval puts the State at considerable risk that issues, could arise at the time of final application review that could jeopardize primacy. Issues raised after State regulations are final, for example, could make it more difficult for States to make the necessary changes within the allowed timeframe. EPA believes that the two-step process will lessen potential timing conflicts in enacting State statutes and regulations and reduce the possibility of noncompliance or a protracted extension period. The final regulation allows 18 months for States to submit their final applications specifically to give States and the Agency enough time to engage in a two-step process.

Headquarters Review of State Program Revisions

Within Headquarters, the Office of Drinking Water (ODW), the Office of General Counsel (OGC), and the Office of Enforcement (OE) all will be involved in the review process.

ODW will select the first full preliminary package received by each region, unless adopted by regulation, for detailed review in Headquarters. For the program selected for detailed Headquarters review, the Region will need to provide a complete State package, including all regulations and program description material. ODW and OE will normally waive concurrence on all remaining State programs, although they will retain the option to review additional State programs should it become necessary.

OGC will depend on their Regional Counsel (ORC) to conduct the detailed reviews to ensure enforcement compliance, and then concur on the ORCs review.

OE will conduct one detailed review (the same State that ODW selects) in each Region for each regulation. After completion of this review, OE will waive concurrence on all other States in that region.

TABLE 4.1
SUGGESTED TIMETABLE FOR REQUESTS FOR APPROVAL

<u>Event</u>	<u>Event Time</u>	<u>Total Time</u>
Promulgation of new or revised NPDWR or regulations	0	0
Regions notify States that rule was promulgated; establish process and schedule for Region/State review and approval	3 mo.	3 mo.
States and Regions agree on plan for State application and timeline	2 mo.	5 mo.
Step 1 (optional)		
State submits preliminary request	4 mo.	9 mo.
EPA Review Regional	60 days	11 mo.
Headquarters	30 days	12 mo.
Region notifies State of tentative determination	90 days	12 mo.
Step 2		
State submits complete and final request	6 mo.	18*mo.
EPA Review** Regional	60 days	20 mo.
Headquarters	30 days	21 mo.
Region notifies State of Determination, issues public notice, and conducts hearing process	90 days*	21 mo.
Region publishes final determination	-----	21 mo.

* Deadline cited in regulations

** This review will be comprehensive if no preliminary request was submitted (HQ will review one State in each Region)

Note: Extensions before the complete and final review may be requested during the process, but States should allow adequate time for the Region to review and grant an extension within the 18 month deadline. See part 5 of this handbook.

**Step 1: Preliminary Request Allows
Early Identification of Issues**

The preliminary request is designed to initiate dialogue between the State and the Region and provide an opportunity for the Region to perform an initial evaluation of the revisions to State primacy programs. The initial review is intended to help ensure that problems or necessary changes to a proposed program revision are identified early in the process when adjustments should be relatively easy to make, rather than after State regulations are final.

The preliminary request should be submitted by the nine-month point. Although it should be as complete as possible, at a minimum it should contain the State's proposed regulations and a draft of the checklist and crosswalk. See Part 3 for a discussion of the contents of a State request for approval of program revisions. EPA should, although it is not required, review the preliminary State request within 90 days and provide the State with its tentative determination, including comments. The State can then use this information in preparing its final application by the 18-month deadline.

Requests submitted to the EPA Regional Offices should be reviewed by the Regional program office and the Office of the Regional Counsel (ORC) concurrently. The ORC should review the crosswalk and determine the statutory enforcement capabilities and regulatory mechanisms for ensuring compliance with the State primacy program. The Division Director will then review the request and supporting materials to make a tentative determination. For the States that ODW will review in detail, the Region should forward the State request for primacy to ODW as soon as possible, but certainly within 60 days. All information submitted must indicate clearly the status of the State revisions (final draft, final or enacted) and whether the Region has provided comments to the State.

The Region should submit the following information for dissemination to Headquarters reviewers:

- The Region's draft determination letter, including the draft ORC concurrences;
- Completed checklist requirements;
- Completed crosswalk forms; and
- Detailed discussion and relevant background documents regarding major issues (if any) that arose during the Regional preliminary review, as well as any other information on the State primacy program that may be of potential significance to national policy.

Upon completion of EPA's initial review, the Region (Water Division Director) should notify the State of the Agency's tentative determination. EPA's tentative determination will include a list of changes or additions that the State should complete before submitting its final request. The suggested changes should be keyed to the required program elements (see Part 2).

Step 2: The Final Request Must Be Complete

The final request for approval of program revisions must be received by EPA within 8 months of the promulgation of new or revised regulations unless an extension has been granted (the extension process is discussed in Part 5 of this guidance).

The final request must include all State primacy program revision materials. These include the final checklist and crosswalk signed by the State primacy agency and the signed AG statement, which was not required for the preliminary request. The State regulations must be final, where possible, and the State must respond to issues raised in the preliminary determination.

The Region will evaluate new or revised materials as well as the AG—s statement and recommend a final determination of State primacy for concurrence by Headquarters. The review process may include requests for supplemental opinions by the State Attorney General to address issues raised by or unresolved in the State's submittal. In the event that a State participates only in single request process, the review of the final request becomes a comprehensive review of all program material, as described in Step 1.

The final review at Headquarters will vary according to whether or not the revision package was reviewed in draft form. If a detailed review of one State in each Region was completed during as the draft stage, Headquarters will only review that State revision package again to ensure that issues raised during the initial review were addressed. If no preliminary review was done, ODW will conduct a full review.

For the non-detailed review States, ODW and OE will normally waive concurrence, although they will retain the option to review additional State programs should it become necessary. ODW will work with OGC to set up a procedure for the OGC concurrence memorandum to be returned directly to the region. Otherwise, ODW will only become involved in the nondetailed review process if the regions are having problems communicating with other Headquarters offices.

Once the EPA Regions have determined that the final State request for approval has been received and is complete the region is to notify the State of its determination that a complete package has been submitted. The Agency then has 90 days (including the Headquarters review period) in which to evaluate the request and approve or disapprove the State request for primacy. Either event requires that the region promptly notify the State in writing of the final determination within the 90 day period. The regulations also require that a notification of disapproval of the revised program shall be accompanied by the Regional Administrator's statement of reasons supporting the decision.

Date Signed: June 1990

**PUBLIC NOTICE AND OPPORTUNITY
FOR HEARING MUST BE PROVIDED**

The Regional Administrator must provide public notice and opportunity for hearing on EPA's final determination regarding a State's request for EPA approval of revisions to its primacy program (142.12(d)(3)). Figure 4.1 shows the public notice process and schedule. The Regional Administrator is required to publish the proposed determination, along with a statement of supporting reasons, and notification that a public hearing may be requested. This information is to be published in the Federal Register and general circulation local newspapers within 15 days of the Regional Administrator's determination. Appendix D includes a sample of a public notice for Notice of Determination and Request for Public Hearing.

Public notification must include at least one location in the State where the information submitted pursuant to Section 142.12 is available for general inspection. All requests for public hearing must be made in writing to the Regional Administrator within 30 days of the notification and it must include the information described in 142.13(c).

If no public hearing is held, the Regional Administrator's determination becomes final and effective 30 days after the original public notice. A State receiving a denial of its request for approval may apply to the Regional Administrator to change the final determination. The State must demonstrate that all program deficiencies that resulted in the denial have been remedied without compromising other required program elements.

NOTE: No EPA public notice or hearing is required for a tentative determination by EPA on a State's preliminary request for approval of program revisions.

Figure 4.1 - Public Notice Process and Schedule (§142.13)

PART 5-THE EXTENSION PROCESS

EXTENSIONS: AVAILABLE IF NEEDED

EPA recognizes that a State's preparation and submittal of a request for approval of program revisions may take longer than the 18-month period provided by the rule for the completion of these steps. The revised primacy rule (40 CFR 142.12(b)) provides the authority and process for the Regional Administrator¹ to extend the submission deadline for State program revisions for up to two years under certain circumstances, based on discretionary authority under section 1413 (b)(1) of the SDWA. Headquarters concurrence of the extensions will not be required. The new primacy rule has been developed to provide as much flexibility as possible in granting extensions while ensuring that the entire process is completed within defined constraints.

AN EXTENSION PROCESS HAS BEEN SET

States may request that the 18-month deadline for submitting the complete and final request for EPA approval of program revisions be extended for up to two years in certain circumstances. The extension request must be submitted to the Agency within 18 months of when EPA promulgated the regulation. Regions should strive to get their States to submit extension requests to EPA within 15 months in order that a decision can be made within the 18 month period. It will be incumbent upon the regions to work out with the State what responsibilities each will have in terms of implementing the regulation by the end of the 18 month period. The approval of an extension is not automatic, and the length of the extension granted will depend on the State's need and the efforts it has taken in responding to program changes.

The extension process, diagramed in Figure 5.1, is initiated by the State during the initial 18-month period defined by the rule. During this time the State notifies EPA that it will be unable to meet the deadline imposed by the rule. EPA Regional Offices also should contact their respective States to identify those that will be requesting an extension so that staff resources can be allocated at the proper time to review the initial set of program revisions as they are submitted. This will provide the opportunity for the Region to assist those States requesting an extension and minimize problems at the time the extension request is due.

When the State initially notifies EPA of its intent to file for an extension, sufficient information should be gathered to demonstrate that the State is taking the actions necessary to be granted an extension.

Where an EPA Region believes that a State may have difficulty meeting the revised primacy requirements, the Region may urge the State to apply for an extension to allow the Region and State to evaluate the program and take any steps needed to build capability.

¹ Delegation of this authority from the Administrator to the Regional Administrator is in process. Headquarters concurrence of extensions will not be required.

Date Signed: June 1990

AN EXTENSION REQUEST MUST MEET CERTAIN CRITERIA

For an extension to be granted, the State must demonstrate to EPA that it is making a good faith effort to meet the requirements of the primacy program and cannot meet the original deadline for reasons beyond its control. A key part of the application for an extension will be the State's proposed schedule for submission of its complete and final request for approval of a revised primacy program. The application must also demonstrate that the State meets at least one of the following criteria:

- Legislative or regulatory authority to enforce the new or revised requirements is lacking; or
- Program capability is inadequate to implement the new or revised requirement; or
- The State wants to group two or more program revisions in a single legislative or regulatory action.

Each State may face unique circumstances that could preclude the timely submission of its program revisions, so the reasons for granting an extension will vary. Examples of such circumstances are shown in Table 5.1.

TABLE 5.1 - CIRCUMSTANCES THAT MIGHT SUPPORT REQUESTS

Statutory barriers, regulatory barriers	<ul style="list-style-type: none"> - biennial legislative sessions - lack of regulatory authority to enforce new requirements
Temporary lack of program capability	<ul style="list-style-type: none"> - insufficient resources (staff/\$) - lack of adequately trained staff - inadequate procedures, guidelines, and policies
Clustering of program revisions	<ul style="list-style-type: none"> - need to use limited State program resources efficiently

The State must include with its extension request a schedule setting forth when and how it will be able to adopt and effectively implement the new provisions. If a State request for an extension is based on a temporary lack of program capability, the State must provide a plan that identifies the steps it will take during the extension period to remedy the deficiencies. These steps might include:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

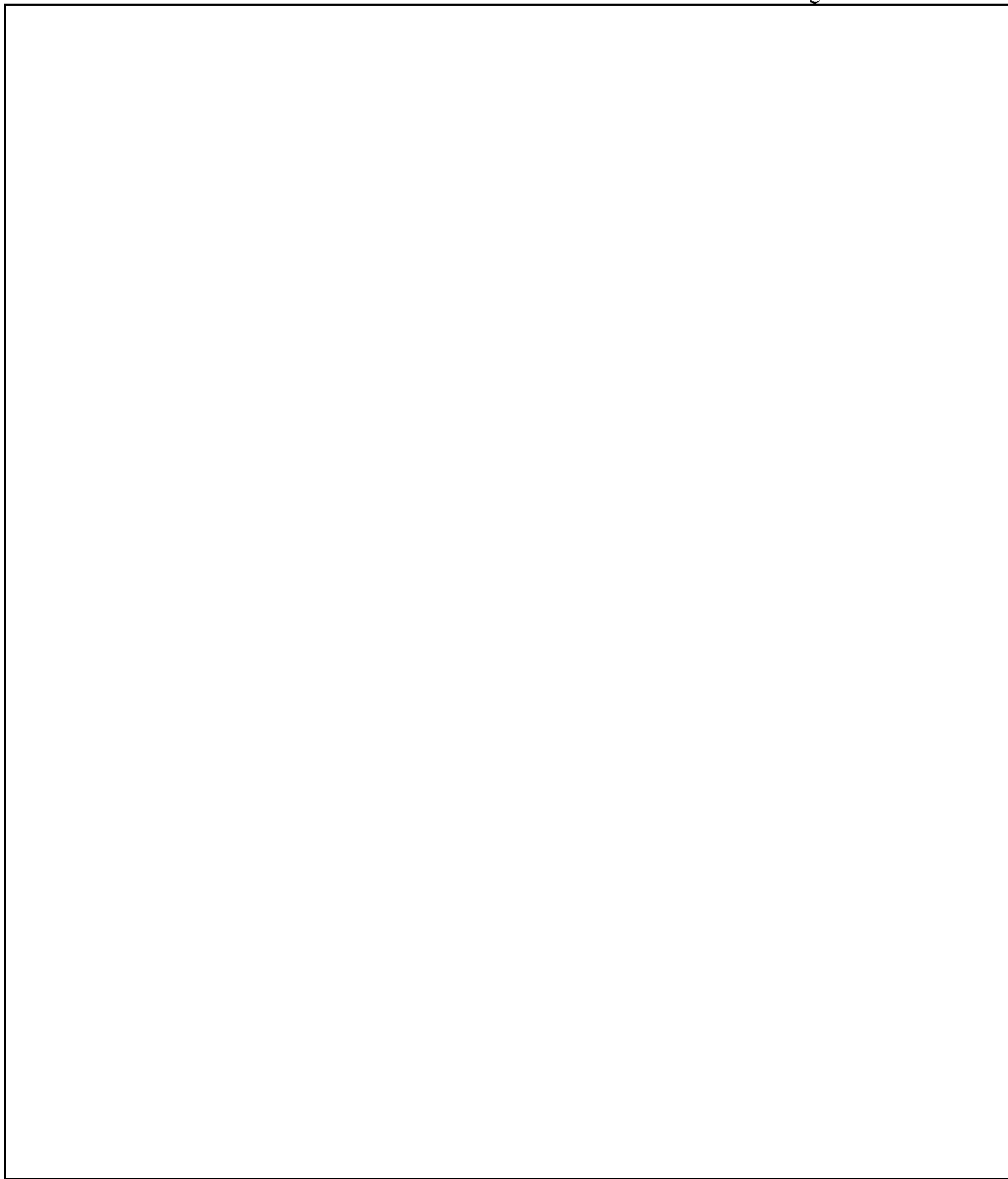
- See
kin
g
a n
inc
rea
s e
i n
pro
gra
m
res
our
ces
;

- Tra
ini
n g
o f
exi
stin
g
staf
f to
i m
ple
me
n t
the
rev
ise
d
reg
ula
tio
n ;
and

Date Signed: June 1990

- Development of procedures, guidelines, and policies necessary to implement the revised program.

Figure 5.2 provides a checklist the Region can use in reviewing extension requests. EPA Regions will review extension requests on a case-by-case basis. States must justify the request.



Date Signed: June 1990

**THE PROGRAM WILL BE OPERATED JOINTLY
DURING THE EXTENSION PERIOD**

If an extension is to be granted, the Region will negotiate certain conditions with the State. The revised primacy rule does not impose specific conditions on a State during the extension period. The specific conditions tied to an extension request approval are to be negotiated by the Regions and States during the approval process.

The conditions for receiving an exception could include, as decided on a case-by-case basis, what the State agrees to:

- Inform public water systems of the new EPA (and upcoming State) requirements and that the Region will be overseeing the implementation of the new requirements until the State's program revision is approved;
- Collect, store, and manage laboratory results and other compliance and operational data required by the EPA-regulations;
- Conduct informal follow-up on violations (e.g., telephone calls, letters) and assist the Region in the development of the technical aspects of enforcement actions;
- Provide technical assistance to public water systems;
- Provide the Region with all the information required under 142.15 on State reporting; and
- Take specific steps during the extension period to remedy the deficiency (for States whose request for an extension is based on current lack of program capability adequate to implement the new requirements).

It cannot be over-emphasized that the extension process, specifically the allowance of an extension, does not postpone the requirements of the specific regulation on the systems, nor the necessity for either the State or EPA to operate a supervision program. The systems must be meeting the requirements of the Federal regulation by the eighteenth month, and either the State or the Region must be operating the supervision program. Any portions of the program not being implemented by the State must be carried out by the Region. This includes not only enforcement activities but activities such as notifying systems of their responsibilities, assuring that systems have at least one approved laboratory to which they can send samples, collection and analysis of monitoring results, etc. It also encompasses making decisions such as whether an operator is qualified to operate a treatment plant under the surface water treatment rule (SWTR), which systems are required to filter under the SWTR, and whether to approve a system's request for a vulnerability waiver. As noted above, while the Regions and States can negotiate who will be responsible for each necessary implementation activity, it should be made clear to the State that the Region will be implementing all those not carried out by the State.

PART 6 - THE ANNUAL PROGRAM PLANNING AND REVIEW PROCESS

THE ANNUAL GRANT PROCESS SUPPORTS THE §142.17(a) PRIMACY REVIEW REQUIREMENT

This part of the guidance outlines the annual review of State programs conducted by the Regions and how it is tied to the revised primacy rule process. The Regions review each State's annual program grant workplan and accomplishments to identify potential program deficiencies for resolution and to support the establishment of approved State primacy programs that will be effective in meeting current and future primacy requirements. The EPA Regional Administrator then issues a planning target along with specific program guidance on items such as upcoming regulations to each State to assist in completing an EPA funding application.

The State's application includes how the State will meet the special grant conditions and a proposed annual workplan for activities related to the implementation of the SDWA for which it expects to receive EPA funding. The State workplan identifies the program elements to be carried out during the year, the outputs and products of these elements, the sources of program funding, a schedule for the completion of each of the outputs, and the State agency responsible for implementing the program.

The application is then reviewed by the Regional Administrator. If the application meets the requirements, the Region will approve it and agree to provide the State with the funds when they are appropriated by Congress.

To determine whether or not the applicant is in compliance with all the conditions of the grant award, the Region conducts an evaluation of the State's program at least annually. The evaluation is used to review State accomplishments, to determine if State activities are consistent with those identified in the annual workplan, and to monitor what is being achieved with the grant funds provided to the State.

In addition, the annual grant review process has become the forum for the State to inform EPA of "minor" State-initiated program changes -- those not associated with adoption of new or revised EPA regulations -- and of any transfer of program components to other State agencies. Review of plans for regulatory changes and overview of implementation of extensions are also key issues in the grant review process. Changes undertaken by a State that would significantly alter the operations of the drinking water program, such as a reduction or elimination of State enforcement, should be communicated promptly to EPA.

CERTAIN INFORMATION WILL BE NEEDED IN A STATES ANNUAL WORKPLAN

Workplans submitted by the States over the next several years will need to include activities

specifically related to the program revision process in addition to the activities carried out by the States on a continuing basis. These will include:

Date Signed: June 1990

- The development of State Statutes or regulations to support new NPDWRs to be released by EPA. The development of the State Statutes or regulations must precede the effective date of the new or revised NPDWRs, unless an extension is granted (see section 5).
- Whether any program transfers, regulatory changes or other modifications outside the scope of the federal program are planned. This could take the form of a negative declaration, i.e., that no such changes are planned or have occurred.
- Activities related to extension agreements.

THE ANNUAL PROGRAM EVALUATION ENSURES PROGRAM CONSISTENCY AND DEVELOPMENT

The annual program evaluation will continue to function as a method to review State accomplishments, to determine program consistency with the submitted workplan, and to monitor the use of grant funds provided to the State.

The Regions will use the annual evaluation to verify that the State is complying with the conditions attached to any extension period. This will assure that the conditions placed on the extension consider the situation facing each State on a case-by-case basis. The evaluation will determine if the State is continuing its good faith effort to achieve program revision approval and is complying with the plan or schedule set forth to achieve primacy.

INFORMATION WILL BE OBTAINED FROM THE STATES DURING THE ANNUAL EVALUATION

Like the rest of the annual grant review program, the evaluation will be tailored to reflect the needs and concerns of a particular State program. The review will, however, be structured around basic information that will need to be obtained for each State program. The questions posed to the States during the evaluation to determine how primacy is being maintained should include:

- Is the State implementing and meeting the requirements of new or revised NPDWRs, i.e., lab certification, enforcement, etc.?
- Have resources been allocated for writing new regulations and developing any primacy application that will be necessary in the next program period?
- Will the State be able to implement and enforce the new or revised NPDWRs within the prescribed time?
- Is any reorganization or reallocation of staff planned, underway, or recently undertaken?
- Is an extension request planned?

Date Signed: June 1990

- Is the State making a maximum effort to be involved in program administration during any extension?

In addition, Regions should use the annual review to complete their files on currently approved State primacy programs, as described in Part 2 of this guidance. The Region should review its files against the checklist of program elements and primacy requirements described in this guidance and in 40 CFR 142.10 and 142.11 to determine what materials must be requested from the States.

PART 7 - THE PROGRAM WITHDRAWAL PROCESS

As provided in 40 CFR 142.17(a)(2), the Administrator may initiate a process to withdraw Program approval if it is determined that the state program no longer meets the requirements of 142.10 and has failed to request or has been denied an extension under 142.12(b)(2) of the deadlines for meeting those requirements, or has failed to take other corrective actions required by the Regional Administrator. A problem that might lead to withdrawal of program approval can be identified through the annual review process or by other means, such as review of an extension request or of compliance with the conditions of an extension.

The steps of the program withdrawal process are described in 40 CFR 142.17(a)(2),(3), and (4). The process begins with a written notification to the state by the Administrator, explaining EPA's basis for believing the state no longer meets the federal program requirements. If the decision is made to proceed with the withdrawal action, EPA must provide public notice and the opportunity for a public hearing. Table 7.1 illustrates the steps required for program withdrawal.

If the state responds with a plan to take corrective action, EPA's review will try to determine, whether the proposal would be effective in returning the program to the point of fully satisfying the program requirements. A key factor will be the demonstration of a good faith effort. A schedule of actions with dates, methods, and resources identified should be provided.

The state must be made aware of the consequences of program withdrawal (or relinquishment). These include the loss of the EPA program grant, which is linked to primacy under Section 1443 of the SDWA, and the requirement to transfer facility files to EPA.

**TABLE 7.1 - OVERVIEW OF PRIMACY WITHDRAWAL PROCESS
40 CFR 142.17(A)(2),(3), AND (4)**Action

- When the RA determines that a State no longer meets the requirements of 142.10, the RA shall notify the State in writing of EPA's intention to initiate primacy withdrawal.
- State receives letter and prepares response
- State sends response to RA (30-day time limit specified by 142.17(a)(3))*
- RA receives response and review begins
- The RA, after reviewing the States submission, will either determine that the State no longer meets the requirements of 142.10 or that the State continues to meet those requirements and shall notify the State of his or her determination. (If the RA decides that the State does satisfy the requirements or is making sufficient progress, the withdrawal process can be stopped.)
- Notice of the RA's determination is published in the Federal Register and newspapers, etc. [15-day time limit specified by 142.13(b)]*
- Public sends requests for hearing [30-day time limit specified by 142.13(c)]*
- All requests are received by RA
- Requests are Reviewed and a determination is made for or against holding a hearing:
 - If the decision is against having a hearing, or no requests have been received, the RA will determine at this point whether primacy should be withdrawn. The next three steps are omitted if a hearing is not required. Pursuant to 142.13(g), if a hearing is not held, the RA's determination becomes effective 30 days after publication of the initial Federal Register notice.
 - If a determination is made to hold a hearing, the RA prepares a notice for the Federal Register
- The notice appears in the Federal Register and news papers, etc., providing time, place, etc., of the hearing

*Required
by
regulation

TABLE 7.1 (CONT.)Action

- Public hearing is held (minimum of 15 days after notice, as required by 142.13(d))
- Record of hearing is received by RA and review begins
- Final determination on primacy is made and a final notice containing the RA's order is prepared for Federal Register publication (Pursuant to 142.13(f), if the RA's order affirms the original determination, the withdrawal shall become effective on the date of the order.)
- Notice published in Federal Register

[State may file petition for review within 45 days of issuance of the order, in an appropriate Court of Appeals (SDWA Section 1448(a)(2))]

APPENDIX A
CHECKLIST OF PROGRAM ELEMENTS

**CONTENTS OF STATE REQUESTS FOR
APPROVAL OF PROGRAM REVISIONS**

**THE FOLLOWING MATERIALS ARE INCLUDED IN THE ATTACHED REQUEST FOR
APPROVAL OF PROGRAM REVISIONS:**

Item	Attachment Number
Checklist of Program Elements	_____
Crosswalks	
Primacy Revision	_____
Special Primacy Requirements (142.16)	_____
Recordkeeping and Reporting (142.14 and 15)	_____
Program Description	_____
Attorney General's Statement	_____

CHECKLIST OF PROGRAM ELEMENTS

The checklist below is keyed to the listing of program elements shown in Table 2.1 in the guidance. Refer to that table and the regulation cited her for details about each requirement.

Program Element	Applies to New Regs	Does not apply	Reason (list attachments)
(1) Stringent as NPDWR - 142.10(a)	<input type="checkbox"/>	<input type="checkbox"/>	
(2) Inventory of PWS - 142.10(b)(1)	<input type="checkbox"/>	<input type="checkbox"/>	
(3) Sanitary Surveys of PWS - 142.10(b)(2)	<input type="checkbox"/>	<input type="checkbox"/>	
(4) Certification of Labs - 142.10(b)(3)	<input type="checkbox"/>	<input type="checkbox"/>	
(5) Available Lab Facilities - 142.10(b)(4)	<input type="checkbox"/>	<input type="checkbox"/>	
(6) Design and Construction of New or Modified Facilities - 142.10(b)(5)	<input type="checkbox"/>	<input type="checkbox"/>	
(7) Apply State Regulations to all PWS Facilities - 142.10(b)(6)(i)	<input type="checkbox"/>	<input type="checkbox"/>	
(8) Authority to Sue - 142.10(b)(6)(ii)	<input type="checkbox"/>	<input type="checkbox"/>	
(9) Entry and Inspection - 142.10(b)(6)(iii)	<input type="checkbox"/>	<input type="checkbox"/>	
(10) Records and Reporting - 142.10(b)(6)(iv)	<input type="checkbox"/>	<input type="checkbox"/>	
(11) Public Notice - 142.10(b)(6)(v)	<input type="checkbox"/>	<input type="checkbox"/>	
(12) Civil/Criminal Penalties - 142.10(b)(6)(vi)	<input type="checkbox"/>	<input type="checkbox"/>	
(13) State Reporting to EPA - 142.10(c)	<input type="checkbox"/>	<input type="checkbox"/>	
(14) Variances & Exemptions - 142.10(d)	<input type="checkbox"/>	<input type="checkbox"/>	
(15) Emergency Planning - 142.10(e)	<input type="checkbox"/>	<input type="checkbox"/>	
Other Requirements 142.16	<input type="checkbox"/>	<input type="checkbox"/>	

APPENDIX B

CROSSWALK

(Example › TCR Rule)

***Please Note That a Crosswalk Will Be
Developed By Headquarters, with Regional
Review and Input, for Each Rule**

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY "NO LESS STRINGENT" ON SEPARATE SHEET
		STATUTE/REGULATION	
DEFINITIONS			
Confluent Growth	141.2		
Domestic or other non-distribution system plumbing problem	141.2		
Near the first service connection	141.2		
System with a single service connection	141.2		
Too numerous to count	141.2		
COLIFORM SAMPLING			
Routine monitoring; collection of samples according to siting plan	141.21(a)(1)		
Monitoring frequency for community water systems - reduced monitoring frequency for community water systems serving 25-1,000 people	141.21(a)(2)		
Monitoring frequency for non- community water systems using only ground water (not under the direct influence); systems serving 1,000 or fewer persons - reduced monitoring frequency for non- community water systems.	141.21(a)(3)(i)		
Monitoring frequency for non- community water systems using ground water (not under the direct influence); systems serving 1,000 or more persons - reduced monitoring frequency for months the system serves 1,000 or fewer persons	141.21(a)(3)(ii)		

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY “NO LESS STRINGENT” ON SEPARATE SHEET
		STATUTE/REGULATION	
Monitoring frequency for non-community water systems using surface water	141.21(a)(3)(iii)		
Monitoring frequency for non-community water systems using ground water under the direct influence; begin monitoring six months after determined to be under the direct influence	141.21(a)(3)(iv)		
Collection of samples at regular intervals	141.21(a)(4)		
Collection of samples for systems using surface water or ground water under the direct influence; systems not filtering	141.21(a)(5)		
Special purpose samples	141.21(a)(6)		
Repeat monitoring; total coliform-positive samples	141.21(b)(1)		
Repeat monitoring; sampling location	141.21(b)(2)		
Repeat monitoring; time period	141.21(b)(3)		
Repeat monitoring; total coliform-positive repeat samples	141.21(b)(4)		
Repeat monitoring; systems collecting fewer than five samples per month with total coliform positive samples	141.21(b)(5)		
Repeat monitoring; waiver of repeat monitoring requirements for systems collecting fewer than five samples per month with total coliform positive samples; site visit	141.21(b)(5)(i)		

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY "NO LESS STRINGENT" ON SEPARATE SHEET
		STATUTE/REGULATION	
Repeat monitoring; waiver of repeat monitoring requirements for systems collecting fewer than five samples per month with total coliform positive samples; problem corrected within one month	141.21(b)(5)(ii)		
Repeat monitoring; use of routine samples as repeat samples	141.21(b)(6)		
Repeat monitoring; results of repeat samples included in determining compliance with the total coliform MCL	141.21(b)(7)		
Invalidation of total coliform-positive samples; improper sample analysis	141.21(c)(1)(i)		
Invalidation of total coliform-positive samples; samples resulting from domestic or other non-distribution system plumbing problems	141.21(c)(1)(ii)		
Invalidation of total coliform-positive samples; result due to circumstances not reflecting distribution system water quality	141.21(c)(1)(iii)		
Invalidation of total coliform-positive samples; samples producing turbid cultures, confluent growth or colonies too numerous to count	141.21(c)(2)		
Sanitary surveys; community water systems not collecting five or more routine samples per month; initial sanitary survey completed by June 29, 1994 - repeat surveys every five years	141.21(d)(1)(i)		

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY "NO LESS STRINGENT" ON SEPARATE SHEET
		STATUTE/REGULATION	
Sanitary surveys; non-community water systems not collecting five or more routine samples per month; initial sanitary survey completed by June 29, 1999 - repeat surveys every five years, except systems using protected and disinfected ground water must repeat every ten years	141.21(d)(1)(i)		
Sanitary surveys; states with wellhead protection programs	141.21(d)(1)(ii)		
Sanitary surveys; performance by approved agent - responsibility for survey	141.21(d)(2)		
Fecal coliform/ <i>E. Coli</i> testing; analysis of total coliform-positive cultures - reporting of fecal coliform/ <i>E. Coli</i> positive	141.21(e)(1)		
Fecal coliform/ <i>E. Coli</i> testing; waiver of testing when total coliform-positive samples are assumed fecal coliform/ <i>E. Coli</i> positive	141.21(e)(2)		
Analytical methodology; sample volume of 100 ml	141.21(f)(1)		
Analytical methodology; determination of presence or absence of total coliform	141.21(f)(2)		
Analytical methodology; approved methods for total coliform analyses	141.21(f)(3)		
Analytical methodology; use of five tube or single culture MTF techniques in lieu of 10-tube MTF technique	141.21(F)(4)		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY "NO LESS STRINGENT" ON SEPARATE SHEET
		STATUTE/REGULATION	
Analytical methodology; fecal coliform analysis	141.21(f)(5)		
Response to violation; State and public notification of MCL exceedance	141.21(g)(1)		
Response to violation; failure to comply with monitoring or sanitary survey requirements	141.21(g)(2)		
REPORTING REQUIREMENTS			
Reporting; systems failing to comply with NPDWRs must report to State within 48 hours	141.31(b)		
GENERAL PUBLIC NOTIFICATION REQUIREMENTS			
Acute violations; presence of total coliform, fecal coliform, or <i>E. Coli</i>	141.32(a)(1)(iii)(C)		
Mandatory health effects language; presence of total coliform	141.32(e)(11)		
Mandatory health effects language; presence of fecal coliform or <i>E. Coli</i>	141.32(e)(12)		
MCLs FOR MICROBIOLOGICAL CONTAMINANTS			
Effective date of Dec. 31, 1990 for deletion of existing coliform MCL and replacement with new microbiological requirements	141.14		

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

PRIMACY REVISION CROSSWALK - TCR			
FEDERAL REQUIREMENT	FEDERAL CITE	STATE AUTHORITY	IF DIFFERENT FROM FEDERAL REQUIREMENT, NOTE DIFFERENCE HERE & EXPLAIN WHY "NO LESS STRINGENT" ON SEPARATE SHEET
		STATUTE/REGULATION	
MCL for systems collecting at least 40 samples per month; no more than five percent are total coliform positive	141.63(a)(1)		
MCL for systems collecting fewer than 40 samples per month; no more than one sample is total coliform positive	141.63(a)(2)		
Violation for fecal coliform or <i>E. Coli</i> positive samples	141.63(b)		
Monthly determination of compliance with total coliform MCL	141.63(c)		
BAT for compliance with the total coliform MCL; protection of wells	141.63(d)(1)		
BAT for compliance with the total coliform MCL; maintenance of a residual disinfectant	141.63(d)(2)		
BAT for compliance with the total coliform MCL; maintenance of distribution system	141.63(d)(3)		
BAT for compliance with the total coliform MCL; filtration and/or disinfection of surface water	141.63(d)(4)		
BAT for compliance with the total coliform MCL; development of a wellhead protection program	141.63(c)(5)		
VARIANCES AND EXEMPTIONS			
Variances and exemptions from the MCLs are not permitted	142.63		

APPENDIX C
MODEL ATTORNEY GENERAL'S
STATEMENT

APPENDIX D
PUBLIC NOTICE

Date Signed: June 1990

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 142

PUBLIC WATER SUPPLY SUPERVISION PROGRAM REVISION FOR THE STATE OF SOUTH CAROLINA

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

ACTION: NOTICE

SUMMARY: Notice is hereby given that the State of South Carolina is revising its approved State Public Water Supply Supervision Primacy Program. South Carolina has adopted (1) drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690) and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 28, 1987 (52 FR 41534). EPA has determined that these two sets of State program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted (within 30 days after publication in the FEDERAL REGISTER) to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made (within thirty (30) days after publication in the FEDERAL REGISTER), a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective (thirty (30) days after publication in the FEDERAL REGISTER).

Any request for a public hearing shall include the following (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and or information that the requesting person intends to submit at such a hearing. (3) The signature of the individual making the requests, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Office of Environmental Quality Control Department of Health and Environmental Control,
2600 Bull Street, Columbia, South Carolina 29201; and Regional Administrator,
Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia
31065.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 54

Date Signed: June 1990

FOR FURTHER INFORMATION CONTACT: Carla E. Pierce, EPA, Region IV Drinking Water Section at the Atlanta address given above telephone 404/324-2913, (FTS) 257-2913.

(Sec. 1413 of the Safe Drinking Water Act, as amended, (1086), and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated:

Grover C. Tidwell

Regional Administrator
EPA, Region IV

Information Collection Rule The Manuals and users— guides listed below can be purchased by contacting: NTIS, 5285 Port Royal Road, Springfield, VA 22161, telephone 800-553-6847. The videos can be purchased by contacting: Impact Video, 4141 Hamilton Ave., Cincinnati, OH 45223, telephone 513-681-9191.			
MANUALS AND USERS' GUIDES			
Title	EPA Publication Number	NTIS Ordering Number	Publication Date
ICR Sampling Manual	EPA 814-B-96-001	PB96-157508	April 1996
DBP/ICR Analytical Methods Manual	EPA 814-B-96-002	PB96-157516	April 1996
ICR Manual for Bench- and Pilot-Scale Treatment Studies	EPA 814-B-96-003	PB96-157524	April 1996
ICR Microbial Laboratory Manual	EPA 600-R-95-178	PB96-157557	April 1996
ICR Reference Manual: Understanding the ICR	EPA 814-B-96-004	PB96-127062	April 1996
Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule	EPA 814-B-96-006 OUT OF STOCK	PB96-157532	
ICR Water Utility Database System Users—Guide (manual and 6 disks)	EPA 814-B-96-004	PB96-157219 (manual) PB96-501671 (both)	April 1996
Release 1.1 (instructions and 3 disks)	EPA 814-B-96-004A	PB97-500490	Sept 1996
ICR Laboratory Quality Control (QC) Users—Guide (manual and 5 disks)	EPA 814-B-95-005	PB96-157227 (manual) PB97-501241 (both)	Nov 1996
Information Collection Requirements Rule › Protozoa and Enteric Virus Sample Collection Procedures (pocket guide)	EPA 814-B-95-001	To order, please phone Jim Walasek, EPA, 513-569-7919	June 1995
ICR Treatment Studies Data Collection Spreadsheets User's—Guide (manual and 4 disks)	EPA 814-B-97-002	To be determined	April 1997

