

health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(3) The Administrator or the State exercising primary enforcement responsibility for public water systems, determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

Special irrigation district means an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in section 1401(4)(B)(i)(II) or (III).

State means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an eligible Indian tribe.

State primary drinking water regulation means a drinking water regulation of a State which is comparable to a national primary drinking water regulation.

State program revision means a change in an approved State primacy program.

Supplier of water means any person who owns or operates a public water system.

Treatment technique requirement means a requirement of the national primary drinking water regulations which specifies for a contaminant a specific treatment technique(s) known to the Administrator which leads to a reduction in the level of such contaminant sufficient to comply with the requirements of part 141 of this chapter.

[41 FR 2918, Jan. 20, 1976, as amended at 53 FR 37410, Sept. 26, 1988; 54 FR 52137, Dec. 20, 1989; 59 FR 64344, Dec. 14, 1994; 63 FR 23367, Apr. 28, 1998]

§ 142.3 Scope.

(a) Except where otherwise provided, this part applies to each public water system in each State; except that this part shall not apply to a public water system which meets all of the following conditions:

(1) Which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) Which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(3) Which does not sell water to any person; and

(4) Which is not a carrier which conveys passengers in interstate commerce.

(b) In order to qualify for primary enforcement responsibility, a State's program for enforcement of primary drinking water regulations must apply to all other public water systems in the State, except for:

(1) Public water systems on carriers which convey passengers in interstate commerce;

(2) Public water systems on Indian land with respect to which the State does not have the necessary jurisdiction or its jurisdiction is in question; or

(c) Section 1451 of the SDWA authorizes the Administrator to delegate primary enforcement responsibility for public water systems to Indian Tribes. An Indian Tribe must meet the statutory criteria at 42 U.S.C. 300j-11(b)(1) before it is eligible to apply for Public Water System Supervision grants and primary enforcement responsibility. All primary enforcement responsibility requirements of parts 141 and 142 apply to Indian Tribes except where specifically noted.

[41 FR 2918, Jan. 20, 1976, as amended at 53 FR 37410, Sept. 26, 1988; 59 FR 64344, Dec. 14, 1994; 67 FR 70858, Nov. 27, 2002]

§ 142.4 State and local authority.

Nothing in this part shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems, but no such law or regulation

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shall relieve any person of any requirements otherwise applicable under this part.

Subpart B—Primary Enforcement Responsibility

§ 142.10 Requirements for a determination of primary enforcement responsibility.

A State has primary enforcement responsibility for public water systems in the State during any period for which the Administrator determines, based upon a submission made pursuant to § 142.11, and submission under § 142.12, that such State, pursuant to appropriate State legal authority:

(a) Has adopted drinking water regulations which are no less stringent than the national primary drinking water regulations (NPDWRs) in effect under part 141 of this chapter;

(b) Has adopted and is implementing adequate procedures for the enforcement of such State regulations, such procedures to include:

(1) Maintenance of an inventory of public water systems.

(2) A 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 primary drinking water regulations.

(3)(i) The establishment and maintenance of a State program for the certification of laboratories conducting analytical measurements of drinking water contaminants pursuant to the requirements of the State primary drinking water regulations including the designation by the State of a laboratory officer, or officers, certified by the Administrator, as the official(s) responsible for the State's certification program. The requirements of this paragraph may be waived by the Administrator for any State where all analytical measurements required by the State's primary drinking water regulations are conducted at laboratories operated by the State and certified by the Agency. Until such time as the Agency establishes a National quality assurance program for laboratory certification the State shall maintain an interim program for the purpose of ap-

proving those laboratories from which the required analytical measurements will be acceptable.

(ii) Upon a showing by an Indian Tribe of an intergovernmental or other agreement to have all analytical tests performed by a certified laboratory, the Administrator may waive this requirement.

(4) Assurance of the availability to the State of laboratory facilities certified by the Administrator and capable of performing analytical measurements of all contaminants specified in the State primary drinking water regulations. Until such time as the Agency establishes a National quality assurance program for laboratory certification the Administrator will approve such State laboratories on an interim basis.

(5) The establishment and maintenance of an activity 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.

(6) Statutory or regulatory enforcement authority adequate to compel compliance with the State primary drinking water regulations in appropriate cases, such authority to include:

(i) Authority to apply State primary drinking water regulations to all public water systems in the State covered by the national primary drinking water regulations, except for interstate carrier conveyances and systems on Indian land with respect to which the State does not have the necessary jurisdiction or its jurisdiction is in question.

(ii) Authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of the State primary drinking water regulations.

(iii) Right of entry and inspection of 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.

(iv) Authority to require suppliers of water to keep appropriate records and make appropriate reports to the State.

(v) Authority to require public water systems to give public notice that is no