

Appendix J

Sample Extension Agreement

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Under 40 CFR 142.12, States and Tribes must adopt the requirements of the Arsenic Rule within two years of the final rule's publication or by January 22, 2003.

An extension agreement will be necessary **only** when States or Tribes have not submitted a complete and final primacy revision application package by January 22, 2003. For further details, please refer to Section III-B.

A sample extension agreement is presented on the following pages.

SAMPLE EXTENSION AGREEMENT

On January 22, 2001, the U.S. Environmental Protection Agency (EPA) published the final Arsenic and Clarifications to Compliance and New Source Monitoring Rule. This Rule amends the National Primary Drinking Water Regulations, 40 CFR Part 141 and the regulations for implementation of the National Primary Drinking Water Regulations, 40 CFR Part 142. Provisions related to Clarifications to Compliance and New Source Monitoring for inorganics and organics take effect on January 22, 2004, and the revised arsenic MCL takes effect on January 23, 2006.

The April 28, 1998, revisions to the Primacy Rule extend the time allowed for States and Tribes to adopt new Federal regulations from 18 months to 2 years. Therefore, the State or Tribe must adopt regulations pertaining to the Arsenic and Clarifications to Compliance and New Source Monitoring Rule and submit a complete and final primacy revision application by January 22, 2003 unless it requests an extension of up to 2 years to adopt the new or revised regulations.

Until the State/Tribal Primacy Revision Application has been submitted, the State or Tribe and appropriate EPA Regional office will share responsibility for implementing the primary program elements as indicated in the extension agreement. The State or Tribe and the EPA Regional office should discuss these elements, and address terms of responsibility in the agreement. The State, Tribe, and EPA should be viewed as partners in this effort, working toward two very specific public health-related goals. The first goal is to achieve a high level of compliance with the regulation. The second goal is to facilitate successful implementation of the regulation during the transition period before the State or Tribe has interim primacy for the rule. In order to accomplish these goals, education, training, and technical assistance will need to be provided to water suppliers on their responsibilities under the Arsenic and Clarifications to Compliance and New Source Monitoring Rule.

This document will record the terms of a Primacy Extension Agreement between the State or Tribe and the EPA for the Arsenic and Clarifications to Compliance and New Source Monitoring Rule, and shall remain effective from the date this agreement is signed until either January 22, 2003 or the date the State's or Tribe's primacy application is submitted under 40 CFR §142.12. To retain primacy the State or Tribe must submit a final and approvable Primacy Revision Application incorporating the above-referenced provisions of the Federal Register to EPA by January 22, 2003, or no later than January 22, 2005 if the State or Tribe has been granted an extension.

{Date}

{Regional Administrator}

Regional Administrator

U.S. EPA Region {Region}

{Street Address}

{City, State, Zip}

RE: Request approval for an Extension Agreement

Dear {Regional Administrator}:

The State of {State} / {Tribe} Tribe is requesting an extension to the date that final primacy revisions are due to EPA for the Arsenic and Clarifications to Compliance and New Source Monitoring Rule until {insert date - no later than January 22, 2003}, as allowed by 40 CFR 142.12 and would appreciate your approval. Staff of the {State Department/Agency} have conferred with your staff and has agreed to the requirements listed below for this extension. This extension is being requested because the State of {State} / {Tribe} Tribe:

- Is planning to group two or more program revisions into a single legislative or regulatory action.
- Currently lacks the legislative or regulatory authority to enforce the new or revised requirements.
- Currently lacks adequate program capability to implement the new or revised requirements.

{State Department/Agency/Tribal Organization} will be implementing the Arsenic and Clarifications to Compliance and New Source Monitoring Rule within the scope of its current authority and capability as outlined in the six areas identified in 142.12(b)(3)(i-vi):

i) Informing PWSs of the new EPA (and upcoming State/Tribal) requirements and that EPA will be overseeing implementation of the requirements until EPA approves the State/Tribal revision.

State/ Tribe	EPA	
_____	_____	Provide copies of regulation and guidance to other State agencies, PWSs, technical assistance providers, associations, or other interested parties.
_____	_____	Educate and coordinate with State staff, public water supplies (PWSs), the public, and other water associations about the requirements of this regulation
_____	_____	Notify affected systems of their requirements under the Arsenic and Clarifications to Compliance and New Source Monitoring Rule.
_____	_____	Other

ii) Collecting, storing and managing laboratory results, public notices, and other compliance and operation data required by the EPA regulations.

State/ Tribe	EPA	
_____	_____	Devise a tracking system for PWS reporting pursuant to the Arsenic Rule.
_____	_____	Keep States informed of SDWIS reporting requirements during development and implementation.
_____	_____	Report Arsenic Rule violations and enforcement information to SDWIS as required.
_____	_____	Other

iii) Assisting EPA in the development of the technical aspects of the enforcement actions and conducting informal follow-up and violations (telephones calls, letters, etc.).

State/ Tribe	EPA	
_____	_____	Issue notices of violation (NOVs) for treatment technique and monitoring/reporting violations of the Arsenic and Clarifications to Compliance and New Source Monitoring Rule.
_____	_____	Provide immediate technical assistance to PWSs with treatment technique and/or monitoring/reporting violations to try to bring them into compliance.
_____	_____	Refer all violations to EPA for enforcement if they have not been resolved within 60 days of the period that triggered the violation. Provide information as requested to conduct and complete any enforcement action referred to EPA.
_____	_____	Other

iv) Providing technical assistance to public water systems.

State/ Tribe	EPA	
_____	_____	Conduct training within the State/Tribe for PWSs on Arsenic and Clarifications to Compliance and New Source Monitoring Rule requirements.
_____	_____	Provide technical assistance through written and/or verbal correspondence to PWSs.
_____	_____	Provide on-site technical assistance to PWSs as requested and needed to ensure compliance with this Rule.
_____	_____	Evaluate requests for variances and exemptions in an expedient manner.
_____	_____	Coordinate with other technical assistance providers and organization to provide accurate information and aid in a timely manner.
_____	_____	Other

v) Providing EPA with all information prescribed by the State Reporting Requirements in 142.15.

- | State/
Tribe | EPA | |
|-----------------|-------|---|
| _____ | _____ | Report any violations incurred by PWSs for these regulations each quarter. |
| _____ | _____ | Report any enforcement actions taken against PWSs for these regulations each quarter. |
| _____ | _____ | Report any variances or exemptions granted for PWSs for these regulations each quarter. |
| _____ | _____ | Other |

vi) For States/Tribes whose request for an extension is based on a current lack of program capability to implement the new or revised requirements agrees to take the following steps to remedy the capability deficiency.

- | State | EPA | |
|-------|-------|--|
| _____ | _____ | Acquire additional resources to implement these regulations (List of specific steps being taken attached as <u>{Appendix A}</u>). |
| _____ | _____ | Provide quarterly updates describing the status of acquiring additional resources. |
| _____ | _____ | Other |

I affirm that the {State Department/Agency/Tribal Organization} will implement provisions of the Arsenic and Clarifications to Compliance and New Source Monitoring Rule as outlined above.

{Agency Director or Secretary} Date

{Name of State Agency/Tribe }

I have consulted with my staff and approve your extension for the aforementioned regulation. I affirm that EPA Region {Region} will implement provisions of the Arsenic and Clarifications to Compliance and New Source Monitoring Rule as outlined above.

Regional Administrator Date
EPA Region {Region}

This Extension Agreement will take effect upon the date of the last signature.