

§ 142.18 EPA review of State monitoring determinations.

(a) A Regional Administrator may annul a State monitoring determination for the types of determinations identified in §§ 141.23(b), 141.23(c), 141.24(f), 141.24(h), and 141.40(n) in accordance with the procedures in paragraph (b) of this section.

(b) When information available to a Regional Administrator, such as the results of an annual review, indicate a State determination fails to apply the standards of the approved State program, he may propose to annul the State monitoring determination by sending the State and the affected PWS a draft Rescission Order. The draft order shall:

- (1) Identify the PWS, the State determination, and the provisions at issue;
- (2) Explain why the State determination is not in compliance with the State program and must be changed; and
- (3) Describe the actions and terms of operation the PWS will be required to implement.

(c) The State and PWS shall have 60 days to comment on the draft Rescission Order.

(d) The Regional Administrator may not issue a Rescission Order to impose conditions less stringent than those imposed by the State.

(e) The Regional Administrator shall also provide an opportunity for comment upon the draft Rescission Order, by

- (1) Publishing a notice in a newspaper in general circulation in communities served by the affected system; and
- (2) Providing 30 days for public comment on the draft order.

(f) The State shall demonstrate that the determination is reasonable, based on its approved State program.

(g) The Regional Administrator shall decide within 120 days after issuance of the draft Rescission Order to:

- (1) Issue the Rescission Order as drafted;
- (2) Issue a modified Rescission Order; or
- (3) Cancel the Rescission Order.

(h) The Regional Administrator shall set forth the reasons for his decision, including a responsiveness summary

addressing significant comments from the State, the PWS and the public.

(i) The Regional Administrator shall send a notice of his final decision to the State, the PWS and all parties who commented upon the draft Rescission Order.

(j) The Rescission Order shall remain in effect until cancelled by the Regional Administrator. The Regional Administrator may cancel a Rescission Order at any time, so long as he notifies those who commented on the draft order.

(k) The Regional Administrator may not delegate the signature authority for a final Rescission Order or the cancellation of an order.

(l) Violation of the actions, or terms of operation, required by a Rescission Order is a violation of the Safe Drinking Water Act.

[56 FR 3595, Jan. 30, 1991]

§ 142.19 EPA review of State implementation of national primary drinking water regulations for lead and copper.

(a) Pursuant to the procedures in this section, the Regional Administrator may review state determinations establishing corrosion control or source water treatment requirements for lead or copper and may issue an order establishing federal treatment requirements for a public water system pursuant to § 141.82 (d) and (f) and § 141.83(b) (2) and (4) where the Regional Administrator finds that:

- (1) A State has failed to issue a treatment determination by the applicable deadline;
- (2) A State has abused its discretion in making corrosion control or source water treatment determinations in a substantial number of cases or in cases affecting a substantial population, or
- (3) The technical aspects of State's determination would be indefensible in an expected federal enforcement action taken against a system.

(b) If the Regional Administrator determines that review of state determination(s) under this section may be appropriate, he shall request the State to