



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor  
Curt Fransen, Director

January 29, 2015

RECEIVED ON:

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EPA Region 10  
Office of the Regional Administrator

Mr. Dennis McLerran  
Regional Administrator  
U.S. EPA Region 10  
1200 6<sup>th</sup> Avenue, Suite 900  
Seattle, WA 98101

Subject: Request for an Extension Agreement for the Revised Total Coliform Rule (RTCR)

Dear Mr. McLerran:

The Idaho Department of Environmental Quality (DEQ) is requesting an extension to the date that final primacy revisions are due to the EPA for the RTCR until February 13, 2017, as allowed by 40 CFR 142.12, and would appreciate your approval. Drinking water staff have conferred with your staff and have agreed to the requirements listed below for this extension. This extension is requested because Idaho:

- 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.

**Primacy Schedule:**

Rulemaking activities are currently underway for Idaho to adopt by reference the RTCR by April 30, 2016. However, if DEQ does not receive an adequate data system from EPA capable of implementing the RTCR in a reasonable timeframe, DEQ will be unable to implement the RTCR and a delay in promulgation activities may be necessary.

DEQ currently plans to negotiate sections of the RTCR where the state is given flexibility. DEQ will provide EPA with preliminary rules and a crosswalk prior to rule negotiations and notify EPA of the dates of public meetings. DEQ will provide a draft primacy crosswalk and application to EPA October 2015. DEQ will present the negotiated rules to the Board of Environmental Quality in either October or November 2015 and then will present the pending rules to the 2016 legislature. The effective date for the rules would be upon adjournment of the

2016 legislative session, possibly on or around the first week of April 2016. A final primacy package will be submitted to EPA at the conclusion of the 2016 legislative session.

**Agency Resources and Capability:**

The primary concern for DEQ is having a data management system to implement the RTCR. EPA's contractor, SAIC, is expected to provide conversion software for SDWIS by March 2015. However, it is our understanding that the EPA contract with SAIC will expire shortly after March 2015, which may leave the states without adequate support for testing and implementing the new data management system. Ultimately, it is unclear whether DEQ will have a data system capable of managing the RTCR in time to adopt and implement the RTCR. DEQ requests that EPA give consideration to DEQ's needs to successfully upload the new system, migrate data, test the program, train staff and maintain the pace of rulemaking activities. Additionally, DEQ's drinking water program manager retired in 2014 and a reorganization of the program left two vacancies. These changes caused a delay in working on the RTCR.

Regarding laboratory capability, DEQ provided the Idaho Bureau of Laboratories information for adoption into their state rules after the final rule was published and will continue to work with staff at the laboratory.

**Implementation:**

DEQ plans to implement all aspects of the RTCR during the extension period except where an adequate data system is not available and where DEQ does not have formal enforcement authority. DEQ will work with EPA to implement the RTCR within the scope of its current authority and capability, as outlined in the areas identified in 40 CFR 142(b)(3):

- i) Informing public water systems (PWSs) of the new EPA (and upcoming state) requirements and the fact that EPA will be overseeing implementation of the requirements until EPA approves the state revision.

STATE	EPA	Implementation Details
x	x	Provide copies of regulation and guidance to other state agencies, PWSs technical assistance providers, associations, or other interested parties. EPA will continue to provide guidance documents to the state.
x	x	Educate and coordinate with state staff, PWSs, the public and other water associations about the requirements of this regulation.
x		Notify affected systems of their requirements under the RTCR.

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

STATE	EPA	Implementation Details
x	x	Devise a tracking system for PWS reporting pursuant to the RTCR. The current functionality of SDWIS will allow for reporting of laboratory results. EPA will need to provide an adequate data system for the reporting of other RTCR data requirements.

x		Keep PWSs informed of reporting requirements during development and implementation.
x	x	Report RTCR violation and enforcement information to Safe Drinking Water Information System (SDWIS) as required. In the absence of an adequate data system, DEQ and EPA will need to work together to report RTCR violations and enforcement information.
x	x	Other: DEQ and EPA will work together to implement a data system capable of receiving, processing, and reporting data for the RTCR.

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

STATE	EPA	Implementation Details
x	x	DEQ and EPA will work together to establish a protocol for escalating enforcement actions consistent with EPA's Enforcement Response Protocol. DEQ will provide technical assistance and informal enforcement actions to public water systems. DEQ will work with EPA to issue formal notices of violations (NOVs) for the RTCR where informal methods do not produce compliance.
x		Provide immediate technical assistance to PWSs with treatment technique, MCL and/or monitoring/reporting violations to try and bring them into compliance.

iv) Providing technical assistance to PWSs.

STATE	EPA	Implementation Details
x		Provide technical assistance through written or verbal correspondence or on-site assistance to ensure compliance with the regulation.
x		Coordinate with other technical service providers and organizations to provide accurate information and aid in a timely manner.
x	x	Conduct training within the state for PWSs on RTCR requirements (see i.). DEQ will coordinate with EPA to assist with training events as necessary.

v) Providing EPA with all information prescribed by the State Reporting Requirements in 40 CFR 142.15 (Please refer to item ii.).

STATE	EPA	Implementation Details
x	x	Report violations incurred by PWSs for this regulation each quarter in a form and manner consistent with the data tracking and management provided in item ii (same requirement as in item ii).
x		Report a list of systems that the state is allowing to monitor less frequently than once per month for Community Water Systems or less frequently than once per quarter for Non-Community Water Systems including the applicable date of the reduced monitoring requirement for each system and in accordance with an agreed upon schedule and method for reporting. DEQ will work with EPA to verify if information can be obtained from SDWIS uploads to avoid unnecessary reporting.

The example extension request letter in EPA's RTCR State Implementation Guidance suggests that the state needs to describe to EPA the steps it will take to correct the lack of program capability to implement the RTCR. The primary obstacle for DEQ to implement the RTCR is the lack of an adequate data management system as noted previously. EPA will need to provide DEQ with a functional and complete data management system to implement the RTCR within the current version of SDWIS. DEQ will need adequate time to upload the system, migrate data, beta test, troubleshoot issues and train staff on the new system. Please note that DEQ explored methods to implement the RTCR with the current version of SDWIS and determined that staff will not be able to implement the new rule without a working data system designed specifically for the RTCR.

I affirm that the Idaho DEQ will implement provisions of the RTCR as outlined in this letter and in the associated enclosures.



1/29/15

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Curt A. Fransen, Director  
Idaho Department of Environmental Quality

Date

I have consulted with my staff and approve your extension for the aforementioned regulation. I affirm that EPA Region 10 will implement provisions of the RTCR as outlined in this letter and in the associated enclosures.



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Dennis McLerran, Regional Administrator  
Environmental Protection Agency, Region 10

2/17/15

Date

The Extension Agreement will take effect upon the date of the last signature and will remain in effect until February 13, 2017.