

§ 142.42

(d) For any request made under §142.40(b), a statement that the system will perform monitoring and other reasonable requirements prescribed by the Administrator as a condition to the variance.

(e) Other information, if any, believed to be pertinent by the applicant.

(f) Such other information as the Administrator may require.

[41 FR 2918, Jan. 20, 1976, as amended at 52 FR 20675, June 2, 1987]

§ 142.42 Consideration of a variance request.

(a) The Administrator shall act on any variance request submitted pursuant to §142.41 within 90 days of receipt of the request.

(b) In his consideration of whether the public water system is unable to comply with a contaminant level required by the national primary drinking water regulations because of the nature of the raw water source, the Administrator shall consider such factors as the following:

(1) The availability and effectiveness of treatment methods for the contaminant for which the variance is requested.

(2) Cost and other economic considerations such as implementing treatment, improving the quality of the source water or using an alternate source.

(c) A variance may be issued to a public water system on the condition that the public water system install the best technology, treatment techniques, or other means, which the Administrator finds are available (taking costs into consideration) and based upon an evaluation satisfactory to the Administrator that indicates that alternative sources of water are not reasonably available to the public water system.

(d) In his consideration of whether a public water system should be granted a variance to a required treatment technique because such treatment is unnecessary to protect the public health, the Administrator shall consider such factors as the following:

(1) Quality of the water source including water quality data and pertinent sources of pollution.

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(2) Source protection measures employed by the public water system.

[41 FR 2918, Jan. 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43847, Aug. 14, 1998]

§ 142.43 Disposition of a variance request.

(a) If the Administrator decides to deny the application for a variance, he shall notify the applicant of his intention to issue a denial. Such notice shall include a statement of reasons for the proposed denial, and shall offer the applicant an opportunity to present, within 30 days of receipt of the notice, additional information or argument to the Administrator. The Administrator shall make a final determination on the request within 30 days after receiving any such additional information or argument. If no additional information or argument is submitted by the applicant the application shall be denied.

(b) If the Administrator proposes to grant a variance request submitted pursuant to §142.41, he shall notify the applicant of his decision in writing. Such notice shall identify the variance, the facility covered, and shall specify the period of time for which the variance will be effective.

(1) For the type of variance specified in §142.40(a) such notice shall provide that the variance will be terminated when the system comes into compliance with the applicable regulation, and may be terminated upon a finding by the Administrator that the system has failed to comply with any requirements of a final schedule issued pursuant to §142.44.

(2) For the type of variance specified in §142.40(b) such notice shall provide that the variance may be terminated at any time upon a finding that the nature of the raw water source is such that the specified treatment technique for which the variance was granted is necessary to protect the health of persons or upon a finding that the public water system has failed to comply with monitoring and other requirements prescribed by the Administrator as a condition to the granting of the variance.

(c) For a variance specified in §142.40(a)(1) the Administrator shall propose a schedule for: