

§ 142.21

40 CFR Ch. I (7-1-07 Edition)

(iii) Provide the shortest practicable time schedule feasible under the circumstances.

(b) States with primary enforcement responsibility may issue exemptions from the requirements of primary drinking water regulations under conditions and in a manner which are not less stringent than the requirements under Section 1416 of the Act. In States that do not have primary enforcement responsibility, exemptions may be granted by the Administrator pursuant to Subpart F of this part.

(1) A State must document all findings that are required under Section 1416 of the Act:

(i) Before finding that management and restructuring changes cannot be made, a State must consider the following measures, and the availability of State Revolving Loan Fund assistance, or any other Federal or State program, that is reasonably likely to be available within the period of the exemption to implement these measures:

(A) Consideration of rate increases, accounting changes, the appointment of a State-certified operator under the State's Operator Certification program, contractual agreements for joint operation with one or more public water systems;

(B) Activities consistent with the State's Capacity Development Strategy to help the public water system acquire and maintain technical, financial, and managerial capacity to come into compliance with the Act; and

(C) Ownership changes, physical consolidation with another public water system, or other feasible and appropriate means of consolidation which would result in compliance with the Act;

(ii) The State must consider the availability of an alternative source of water, including the feasibility of partnerships with neighboring public water systems, as identified by the public water system or by the State consistent with the Capacity Development Strategy.

(2) In the case of a public water system serving a population of not more than 3,300 persons and which needs financial assistance for the necessary improvements under the initial compli-

ance schedule, an exemption granted by the State under section 1416(b)(2)(B)(i) or (ii) of the Act may be renewed for one or more additional 2-year periods, but not to exceed a total of 6 additional years, only if the State establishes that the public water system is taking all practicable steps to meet the requirements of Section 1416(b)(2)(B) of the Act and the established compliance schedule to achieve full compliance with the contaminant level or treatment technique for which the exemption was granted. A State must document its findings in granting an extension under this paragraph.

[63 FR 43847, Aug. 14, 1998]

§ 142.21 State consideration of a variance or exemption request.

A State with primary enforcement responsibility shall act on any variance or exemption request submitted to it, within 90 days of receipt of the request.

§ 142.22 Review of State variances, exemptions and schedules.

(a) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances and exemptions granted (and schedules prescribed pursuant thereto) by the States with primary enforcement responsibility during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of exemptions and schedules as he deems necessary to carry out the purposes of this title, but at least one review shall be completed within each 3-year period following the completion of the first review under this paragraph.

(b) Notice of a proposed review shall be published in the FEDERAL REGISTER. Such notice shall (1) provide information respecting the location of data and other information respecting the variances and exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such variances and exemptions), and (2) advise of the opportunity to submit comments on the variances and exemptions reviewed and on the need for continuing them. Upon