

Environmental Protection Agency

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§142.20(b)(1)(i), cannot reasonably be made that will result in compliance with the applicable national primary drinking water regulation or, if compliance cannot be achieved, improve the quality of the drinking water.

(b) No exemption shall be granted unless the public water system establishes that the public water system is taking all practicable steps to meet the standard; and

(1) The public water system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to Section 1412(b)(10) of the Act;

(2) In the case of a public water system which needs financial assistance for the necessary improvements, the public water system has entered into an agreement to obtain such financial assistance or assistance pursuant to Section 1452 of the Act, or any other Federal or State program that is reasonably likely to be available within the period of the exemption; or

(3) The public water system has entered into an enforceable agreement to become a part of a regional public water system.

(c) A public water system may not receive an exemption under this subpart if the public water system was granted a variance under Section 1415(e) of the Act.

[63 FR 43847, Aug. 14, 1998]

§ 142.51 Exemption request.

A supplier of water may request the granting of an exemption pursuant to this subpart for a public water system within a State that does not have primary enforcement responsibility by submitting a request for exemption in writing to the Administrator. Suppliers of water may submit a joint request for exemptions when they seek similar exemptions under similar circumstances. Any written request for an exemption or exemptions shall include the following information:

(a) The nature and duration of exemption requested.

(b) Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of the national primary drinking water regulations.

(c) Explanation of the compelling factors such as time or economic factors which prevent such system from achieving compliance.

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

(e) A proposed compliance schedule, including the date when each step toward compliance will be achieved.

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

§ 142.52 Consideration of an exemption request.

(a) The Administrator shall act on any exemption request submitted pursuant to §142.51 within 90 days of receipt of the request.

(b) In his consideration of whether the public water system is unable to comply due to compelling factors, the Administrator shall consider such factors as the following:

(1) Construction, installation, or modification of the treatment equipment or systems.

(2) The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance.

(3) Economic feasibility of compliance.

§ 142.53 Disposition of an exemption request.

(a) If the Administrator decides to deny the application for an exemption, 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 grants an exemption request submitted pursuant to §142.51, he shall notify the applicant of his decision in writing. Such notice shall identify the facility covered, and shall specify the termination date of

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the exemption. Such notice shall provide that the exemption 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 §142.55.

(c) The Administrator shall propose a schedule for:

(1) Compliance (including increments of progress or measures to develop an alternative source of water supply) by the public water system with each contaminant level requirement or treatment technique requirement with respect to which the exemption was granted; and

(2) Implementation by the public water system of such control measures as the Administrator may require for each contaminant covered by the exemption.

(d) The schedule shall be prescribed by the Administrator at the time the exemption is granted, subsequent to provision of opportunity for hearing pursuant to §142.54.

[41 FR 2918, Jan. 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43848, Aug. 14, 1998]

§ 142.54 Public hearings on exemption schedules.

(a) Before a schedule proposed by the Administrator pursuant to §142.53 may take effect, the Administrator shall provide notice and opportunity for public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the proposal of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(b) Public notice of an opportunity for hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall include at least the following:

(1) Posting of a notice in the principal post office of each municipality or area served by the public water system, and publishing of a notice in a newspaper or newspapers of general cir-

ulation in the area served by the public water system.

(2) Mailing of a notice to the agency of the State in which the system is located which is responsible for the State's water supply program and to other appropriate State or local agencies at the Administrator's discretion.

(3) Such notices shall include a summary of the proposed schedule and shall inform interested persons that they may request a public hearing on the proposed schedule.

(c) Requests for hearing may be submitted by any interested person other than a Federal agency. Frivolous or insubstantial requests for hearing may be denied by the Administrator. Requests must be submitted to the Administrator within 30 days after issuance of the public notices provided for in paragraph (b) of this section. Such requests shall include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the interest of the person making the request in the proposed schedule and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

(d) The Administrator shall give notice in the manner set forth in paragraph (b) of this section of any hearing to be held pursuant to a request submitted by an interested person or on his own motion. Notice of the hearing shall also be sent to the person requesting the hearing, if any. Notice of the hearing shall include a statement of the purpose of the hearing, information regarding the time and location of the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing. At least one hearing location specified in the public notice shall be within the involved State. Notice of the hearing shall be given not less than 15 days prior to the time scheduled for the hearing.