

Environmental Protection Agency

§ 142.14

(c) Requests for hearing submitted pursuant to paragraph (b) of this section shall be submitted to the Administrator within 30 days after publication of notice of opportunity for hearing in the FEDERAL REGISTER. 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 requesting person's interest in the Administrator's determination and of information that the requesting person intends to submit at such hearing.

(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 FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State involved 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 a hearing, if any, and to the State involved. Notice of the hearing shall include a statement of the purpose of the hearing, information regarding the time and location or locations for 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 hearing shall be given not less than 15 days prior to the time scheduled for the hearing.

(e) Hearings convened pursuant to paragraph (d) of this section shall be conducted before a hearing officer to be designated by the Administrator. The hearing shall be conducted by the hearing officer in an informal, orderly and expeditious manner. The hearing officer shall have authority to call witnesses, receive oral and written testimony and take such other action as may be necessary to assure the fair and efficient conduct of the hearing. Following the conclusion of the hearing, the hearing officer shall forward the

record of the hearing to the Administrator.

(f) After reviewing the record of the hearing, the Administrator shall issue an order affirming the determination referred to in paragraph (a) of this section or rescinding such determination. If the determination is affirmed, it shall become effective as of the date of the Administrator's order.

(g) If no timely request for hearing is received and the Administrator does not determine to hold a hearing on his own motion, the Administrator's determination shall become effective 30 days after notice is issued pursuant to paragraph (b) of this section.

(h) If a determination of the Administrator that a State no longer meets the requirements for primary enforcement responsibility becomes effective, the State may subsequently apply for a determination that it meets such requirements by submitting to the Administrator information demonstrating that it has remedied the deficiencies found by the Administrator without adversely sacrificing other aspects of its program required for primary enforcement responsibility.

[41 FR 2918, Jan. 20, 1976, as amended at 54 FR 52140, Dec. 20, 1989; 60 FR 33661, June 28, 1995]

§ 142.14 Records kept by States.

(a) Each State which has primary enforcement responsibility shall maintain records of tests, measurements, analyses, decisions, and determinations performed on each public water system to determine compliance with applicable provisions of State primary drinking water regulations.

(1) Records of microbiological analyses shall be retained for not less than 1 year. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided that the information retained includes:

(i) The analytical method used;

(ii) The number of samples analyzed each month;

(iii) The analytical results, set forth in a form which makes possible comparison with the limits specified in §§ 141.63, 141.71, and 141.72 of this chapter.

(2) Records of microbiological analyses of repeat or special samples shall

be retained for not less than one year in the form of actual laboratory reports or in an appropriate summary form.

(3) Records of turbidity measurements must be kept for not less than one year. The information retained must be set forth in a form which makes possible comparison with the limits specified in §§ 141.71, 141.73, 141.173 and 141.175, 141.550-141.553 and 141.560-141.564 of this chapter. Until June 29, 1993, for any public water system which is providing filtration treatment and until December 30, 1991, for any public water system not providing filtration treatment and not required by the State to provide filtration treatment, records kept must be set forth in a form which makes possible comparison with the limits contained in § 141.13 of this chapter.

(4)(i) Records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with §§ 141.72 and 141.74 of this chapter and the reporting requirements of §§ 141.75, 141.175, and 141.570, of this chapter must be kept for not less than one year.

(ii) Records of decisions made on a system-by-system and case-by-case basis under provisions of part 141, subpart H, subpart P, or subpart T of this chapter, must be made in writing and kept by the State.

(A) Records of decisions made under the following provisions shall be kept for 40 years (or until one year after the decision is reversed or revised) and a copy of the decision must be provided to the system:

(1) Section 141.73(a)(1)—Any decision to allow a public water system using conventional filtration treatment or direct filtration to substitute a turbidity limit greater than 0.5 NTU;

(2) Section 141.73(b)(1)—Any decision to allow a public water system using slow sand filtration to substitute a turbidity limit greater than 1 NTU;

(3) Section 141.74(b)(2)—Any decision to allow an unfiltered public water system to use continuous turbidity monitoring;

(4) Section 141.74(b)(6)(i)—Any decision to allow an unfiltered public water system to sample residual disinfectant

concentration at alternate locations if it also has ground water source(s);

(5) Section 141.74(c)(1)—Any decision to allow a public water system using filtration treatment to use continuous turbidity monitoring; or a public water system using slow sand filtration or filtration treatment other than conventional treatment, direct filtration or diatomaceous earth filtration to reduce turbidity sampling to once per day; or for systems serving 500 people or fewer to reduce turbidity sampling to once per day;

(6) Section 141.74(c)(3)(i)—Any decision to allow a filtered public water system to sample disinfectant residual concentration at alternate locations if it also has ground water source(s);

(7) Section 141.75(a)(2)(ix)—Any decision to allow reduced reporting by an unfiltered public water system;

(8) Section 141.75(b)(2)(iv)—Any decision to allow reduced reporting by a filtered public water system; and

(9) Section 141.76—Any decisions made to approve alternate recycle locations, require modifications to recycle return locations, or require modifications to recycle practices.

(B) Records of decisions made under the following provisions shall be kept for one year after the decision is made:

(1) Section 141.71(b)(1)(i)—Any decision that a violation of monthly CT compliance requirements was caused by circumstances that were unusual and unpredictable.

(2) Section 141.71(b)(1)(iv)—Any decision that a violation of the disinfection effectiveness criteria was not caused by a deficiency in treatment of the source water;

(3) Section 141.71(b)(5)—Any decision that a violation of the total coliform MCL was not caused by a deficiency in treatment of the source water;

(4) Section 141.74(b)(1)—Any decision that total coliform monitoring otherwise required because the turbidity of the source water exceeds 1 NTU is not feasible, except that if such decision allows a system to avoid monitoring without receiving State approval in each instance, records of the decision shall be kept until one year after the decision is rescinded or revised.

(C) Records of decisions made under the following provisions shall be kept

for the specified period or 40 years, whichever is less.

(1) Section 141.71(a)(2)(i)—Any decision that an event in which the source water turbidity which exceeded 5 NTU for an unfiltered public water system was unusual and unpredictable shall be kept for 10 years.

(2) Section 141.71(b)(1)(iii)—Any decision by the State that failure to meet the disinfectant residual concentration requirements of § 141.72(a)(3)(i) was caused by circumstances that were unusual and unpredictable, shall be kept unless filtration is installed. A copy of the decision must be provided to the system.

(3) Section 141.71(b)(2)—Any decision that a public water system's watershed control program meets the requirements of this section shall be kept until the next decision is available and filed.

(4) Section 141.70(c)—Any decision that an individual is a qualified operator for a public water system using a surface water source or a ground water source under the direct influence of surface water shall be maintained until the qualification is withdrawn. The State may keep this information in the form of a list which is updated periodically. If such qualified operators are classified by category, the decision shall include that classification.

(5) Section 141.71(b)(3)—Any decision that a party other than the State is approved by the State to conduct on-site inspections shall be maintained until withdrawn. The State may keep this information in the form of a list which is updated periodically.

(6) Section 141.71(b)(4)—Any decision that an unfiltered public water system has been identified as the source of a waterborne disease outbreak, and, if applicable, that it has been modified sufficiently to prevent another such occurrence shall be kept until filtration treatment is installed. A copy of the decision must be provided to the system.

(7) Section 141.72—Any decision that certain interim disinfection requirements are necessary for an unfiltered public water system for which the State has determined that filtration is necessary, and a list of those requirements, shall be kept until filtration

treatment is installed. A copy of the requirements must be provided to the system.

(8) Section 141.72(a)(2)(ii)—Any decision that automatic shut-off of delivery of water to the distribution system of an unfiltered public water system would cause an unreasonable risk to health or interfere with fire protection shall be kept until rescinded.

(9) Section 141.72(a)(4)(ii)—Any decision by the State, based on site-specific considerations, that an unfiltered system has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified by § 141.74(a)(3) and that the system is providing adequate disinfection in the distribution system, so that the disinfection requirements contained in § 141.72(a)(4)(i) do not apply, and the basis for the decision, shall be kept until the decision is reversed or revised. A copy of the decision must be provided to the system.

(10) Section 141.72(b)(3)(ii)—Any decision by the State, based on site-specific conditions, that a filtered system has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions specified by § 141.74(a)(3) and that the system is providing adequate disinfection in the distribution system, so that the disinfection requirements contained in § 141.72(b)(3)(i) do not apply, and the basis for the decision, shall be kept until the decision is reversed or revised. A copy of the decision must be provided to the system.

(11) Section 141.73(d)—Any decision that a public water system, having demonstrated to the State that an alternative filtration technology, in combination with disinfection treatment, consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent removal and/or inactivation of viruses, may use such alternative filtration technology, shall be kept until the decision is reversed or revised. A copy of the decision must be provided to the system.

(12) Section 141.74(b), table 3.1—Any decision that a system using either preformed chloramines or chloramines

formed by the addition of ammonia prior to the addition of chlorine has demonstrated that 99.99 percent removal and/or inactivation of viruses has been achieved at particular CT values, and a list of those values, shall be kept until the decision is reversed or revised. A copy of the list of required values must be provided to the system.

(13) Section 141.74(b)(3)(v)—Any decision that a system using a disinfectant other than chlorine may use $CT_{99.9}$ values other than those in tables 2.1 or 3.1 and/or other operational parameters to determine if the minimum total inactivation rates required by §141.72(a)(1) are being met, and what those values or parameters are, shall be kept until the decision is reversed or revised. A copy of the list of required values or parameters must be provided to the system.

(14) Section 142.16(b)(2)(i)(B)—Any decision that a system using a ground water source is under the direct influence of surface water.

(iii) Records of any determination that a public water system supplied by a surface water source or a ground water source under the direct influence of surface water is not required to provide filtration treatment shall be kept for 40 years or until withdrawn, whichever is earlier. A copy of the determination must be provided to the system.

(5) Records of each of the following decisions made pursuant to the total coliform provisions of part 141 shall be made in writing and retained by the State.

(i) Records of the following decisions must be retained for 5 years.

(A) Section 141.21(b)(1)—Any decision to waive the 24-hour time limit for collecting repeat samples after a total coliform-positive routine sample if the public water system has a logistical problem in collecting the repeat sample that is beyond the system's control, and what alternative time limit the system must meet.

(B) Section 141.21(b)(5)—Any decision to allow a system to waive the requirement for five routine samples the month following a total coliform-positive sample. If the waiver decision is made as provided in §141.21(b)(5), the

record of the decision must contain all the items listed in that paragraph.

(C) Section 141.21(c)—Any decision to invalidate a total coliform-positive sample. If the decision to invalidate a total coliform-positive sample as provided in §141.21(c)(1)(iii) is made, the record of the decision must contain all the items listed in that paragraph.

(ii) Records of each of the following decisions must be retained in such a manner so that each system's current status may be determined.

(A) Section 141.21(a)(2)—Any decision to reduce the total coliform monitoring frequency for a community water system serving 1,000 persons or fewer, that has no history of total coliform contamination in its current configuration and had a sanitary survey conducted within the past five years showing that the system is supplied solely by a protected groundwater source and is free of sanitary defects, to less than once per month, as provided in §141.21(a)(2); and what the reduced monitoring frequency is. A copy of the reduced monitoring frequency must be provided to the system.

(B) Section 141.21(a)(3)(i)—Any decision to reduce the total coliform monitoring frequency for a non-community water system using only ground water and serving 1,000 persons or fewer to less than once per quarter, as provided in §141.21(a)(3)(i), and what the reduced monitoring frequency is. A copy of the reduced monitoring frequency must be provided to the system.

(C) Section 141.21(a)(3)(ii)—Any decision to reduce the total coliform monitoring frequency for a non-community water system using only ground water and serving more than 1,000 persons during any month the system serves 1,000 persons or fewer, as provided in §141.21(a)(3)(ii). A copy of the reduced monitoring frequency must be provided to the system.

(D) Section 141.21(a)(5)—Any decision to waive the 24-hour limit for taking a total coliform sample for a public water system which uses surface water, or ground water under the direct influence of surface water, and which does not practice filtration in accordance with part 141, subpart H, and which measures a source water turbidity level

exceeding 1 NTU near the first service connection as provided in §141.21(a)(5).

(E) Section 141.21(d)(1)—Any decision that a non-community water system is using only protected and disinfected ground water and therefore may reduce the frequency of its sanitary survey to less than once every five years, as provided in §141.21(d), and what that frequency is. A copy of the reduced frequency must be provided to the system.

(F) Section 141.21(d)(2)—A list of agents other than the State, if any, approved by the State to conduct sanitary surveys.

(G) Section 141.21(e)(2)—Any decision to allow a public water system to forgo fecal coliform or *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is fecal coliform-positive or *E. coli*-positive, as provided in §141.21(e)(2).

(6) Records of analysis for other than microbiological contaminants (including total coliform, fecal coliform, and heterotrophic plate count), residual disinfectant concentration, other parameters necessary to determine disinfection effectiveness (including temperature and pH measurements), and turbidity shall be retained for not less than 12 years and shall include at least the following information:

- (i) Date and place of sampling.
- (ii) Date and results of analyses.

(7) Any decisions made pursuant to the provisions of part 141, subpart P or subpart T of this chapter.

(i) Records of systems consulting with the State concerning a modification to disinfection practice under §§141.170(d), 141.172(c), and 141.542 of this chapter, including the status of the consultation.

(ii) Records of decisions that a system using alternative filtration technologies, as allowed under §§141.173(b) and §141.552 of this chapter, can consistently achieve a 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of *Cryptosporidium* oocysts. The decisions must include State-set enforceable turbidity limits for each system. A copy of the decision must be kept until the decision is re-

versed or revised. The State must provide a copy of the decision to the system.

(iii) Records of systems required to do filter self-assessment, CPE, or CCP under the requirements of §§141.175 and 141.563 of this chapter.

(b) Records required to be kept pursuant to paragraph (a) of this section must be in a form admissible as evidence in State enforcement proceedings.

(c) Each State which has primary enforcement responsibility shall maintain current inventory information for every public water system in the State and shall retain inventory records of public water systems for not less than 12 years.

(d) Each State which has primary enforcement responsibility shall retain, for not less than 12 years, files which shall include for each such public water system in the State:

- (1) Reports of sanitary surveys;
- (2) Records of any State approvals;
- (3) Records of any enforcement actions.

(4) A record of the most recent vulnerability determination, including the monitoring results and other data supporting the determination, the State's findings based on the supporting data and any additional bases for such determination; except that it shall be kept in perpetuity or until a more current vulnerability determination has been issued.

(5) A record of all current monitoring requirements and the most recent monitoring frequency decision pertaining to each contaminant, including the monitoring results and other data supporting the decision, the State's findings based on the supporting data and any additional bases for such decision; except that the record shall be kept in perpetuity or until a more recent monitoring frequency decision has been issued.

(6) A record of the most recent asbestos repeat monitoring determination, including the monitoring results and other data supporting the determination, the State's findings based on the supporting data and any additional bases for the determination and the repeat monitoring frequency; except that these records shall be maintained in

perpetuity or until a more current repeat monitoring determination has been issued.

(7) Records of annual certifications received from systems pursuant to part 141, subpart K demonstrating the system's compliance with the treatment techniques for acrylamide and/or epichlorohydrin in §14.111.

(8) Records of the currently applicable or most recent State determinations, including all supporting information and an explanation of the technical basis for each decision, made under the following provisions of 40 CFR, part 141, subpart I for the control of lead and copper:

(i) Section 141.81(b)—for any water system deemed to be optimized under §141.81(b)(1) or (b)(3) of this chapter, any conditions imposed by the State on specific water systems to ensure the continued operation and maintenance of corrosion control treatment in place;

(ii) Section 141.82(b)—decisions to require a water system to conduct corrosion control treatment studies;

(iii) Section 141.82(d)—designations of optimal corrosion control treatment;

(iv) Section 141.82(f)—designations of optimal water quality parameters;

(v) Section 141.82(h)—decisions to modify a public water system's optimal corrosion control treatment or water quality parameters;

(vi) Section 141.83(b)(2)—determinations of source water treatment;

(vii) Section 141.83(b)(4)—designations of maximum permissible concentrations of lead and copper in source water;

(viii) Section 141.84(e)—determinations establishing shorter lead service line service line replacement schedules under §141.84;

(ix) Sections 141.81(b)(3)(iii), 141.86(d)(4)(vii), and 141.86(g)(4)(iii)—determinations of additional monitoring requirements and/or other actions required to maintain optimal corrosion control by systems monitoring for lead and copper at the tap less frequently than once every six months that change treatment or add a new source of water;

(x) Section 141.85—system-specific decisions regarding the content of writ-

ten public education materials and/or the distribution of these materials;

(xi) Section 141.86(b)(5)—system-specific determinations regarding use of non-first-draw samples at non-transient non-community water systems, and community water systems meeting the criteria of §§141.85(c)(7)(i) and (ii) of this chapter, that operate 24 hours a day;

(xii) Section 141.86(c)—system-specific designations of sampling locations for systems subject to reduced monitoring;

(xiii) Section 141.86(d)(iv)(A)—system-specific determinations pertaining to alternative sample collection periods for systems subject to reduced monitoring;

(xiv) Section 141.86(g)—determinations of small system monitoring waivers, waiver recertifications, and waiver revocations;

(xv) Section 141.87(c)(3)—determinations regarding representative entry point locations at ground water systems;

(xvi) Section 141.90(e)(4)—system-specific determinations regarding the submission of information to demonstrate compliance with partial lead service line replacement requirements; and

(xvii) Section 141.90(f)—system-specific decisions regarding the resubmission of detailed documentation demonstrating completion of public education requirements.

(9) Records of reports and any other information submitted by PWSs under §141.90 of this chapter, including records of any 90th percentile values calculated by the State under §141.90(h) of this chapter.

(10) Records of State activities, and the results thereof, to:

(i) Verify compliance with State determinations issued under §§141.82(f) of this chapter, 141.82(h) of this chapter, 141.83(b)(2) of this chapter, and 141.83(b)(4) of this chapter;

(ii) Verify compliance with the requirements related to partial lead service line replacement under §141.84(d) of this chapter and compliance with lead service line replacement schedules under §141.84(e) of this chapter; and

(iii) Invalidate tap water lead and copper samples under §141.86(f) of this chapter.

(11) Records of each system's currently applicable or most recently designated monitoring requirements. If, for the records identified in paragraphs (d)(8)(i) through (d)(8)(xvii) of this section, no change is made to State determinations during a 12-year retention period, the State shall retain the record until a new decision, determination, or designation has been issued.

(12) Records of the currently applicable or most recent State determinations, including all supporting information and an explanation of the technical basis for each decision, made under the following provisions of 40 CFR part 141, subpart L for the control of disinfectants and disinfection byproducts. These records must also include interim measures toward installation.

(i) States must keep records of systems that are installing GAC or membrane technology in accordance with § 141.64(b)(2) of this chapter. These records must include the date by which the system is required to have completed installation.

(ii) States must keep records of systems that are required, by the State, to meet alternative minimum TOC removal requirements or for whom the State has determined that the source water is not amenable to enhanced coagulation in accordance with § 141.135(b)(3) and (4) of this chapter, respectively. These records must include the alternative limits and rationale for establishing the alternative limits.

(iii) States must keep records of subpart H systems using conventional treatment meeting any of the alternative compliance criteria in § 141.135(a)(2) or (3) of this chapter.

(iv) States must keep a register of qualified operators that have met the State requirements developed under § 142.16(f)(2).

(13) Records of systems with multiple wells considered to be one treatment plant in accordance with § 141.132(a)(2) of this chapter and § 142.16(f)(5).

(14) Monitoring plans for subpart H systems serving more than 3,300 persons in accordance with § 141.132(f) of this chapter.

(15) List of laboratories approved for analyses in accordance with § 141.131(b) of this chapter.

(16) List of systems required to monitor for disinfectants and disinfection byproducts in accordance with part 141, subpart L of this chapter. The list must indicate what disinfectants and DBPs, other than chlorine, TTHM, and HAA5, if any, are measured.

(e) Each State which has primary enforcement responsibility shall retain records pertaining to each variance and exemption granted by it for a period of not less than 5 years following the expiration of such variance or exemption.

(f) Public notification records under Subpart Q of Part 141 of this chapter received from public water systems (including certifications of compliance and copies of public notices) and any state determinations establishing alternative public notification requirements for the water systems must be retained for three years.

(g) Records required to be kept under this section shall be available to the Regional Administrator upon request. The records required to be kept under this section shall be maintained and made available for public inspection by the State, or, the State at its option may require suppliers of water to make available for public inspection those records maintained in accordance with § 141.33.

[41 FR 2918, Jan. 20, 1976, as amended at 54 FR 27537, June 29, 1989; 55 FR 25065, June 19, 1990; 56 FR 3595, Jan. 30, 1991; 56 FR 26562, June 7, 1991; 63 FR 69475, 69519, Dec. 16, 1998; 65 FR 2014, Jan. 12, 2000; 65 FR 26048, May 4, 2000; 66 FR 31105, June 8, 2001; 67 FR 1843, Jan. 14, 2002]

§ 142.15 Reports by States.

Each State which has primary enforcement responsibility shall submit to the Administrator the following information:

(a) Each State which has primary enforcement responsibility shall submit quarterly reports to the Administrator on a schedule and in a format prescribed by the Administrator, consisting of the following information:

(1) New violations by public water systems in the State during the previous quarter of State regulations adopted to incorporate the requirements of national primary drinking water regulations, including violations of the public notification requirements