

microscopy, and must have successfully analyzed at least 50 water and/or wastewater samples for *Cryptosporidium*. Six months of additional experience in the above areas may be substituted for two years of college.

In seeking approval for an Information Collection Request, EPA requested comment on the Lab QA Program (67 FR 9731, March 4, 2002) (USEPA 2002c). A number of commenters stated that the analyst qualification criteria are restrictive and could make it difficult for laboratories to maintain adequate analyst staffing (and, hence, sample analysis capacity) in the event of staff turnover or competing priorities. Some commenters suggested that laboratories and analysts should be evaluated based on proficiency testing, and that analyst experience standards should be reduced or eliminated. (Comments are available in Office of Water docket, number W-01-17).

Another aspect of the analyst experience criteria is that systems may generate *Cryptosporidium* data for grandfathering under the LT2ESWTR using laboratories that meet the analyst experience requirement of Methods 1622 or 1623 but not the more rigorous principal analyst/supervisor experience requirement of the Lab QA Program.

EPA requests comment on whether the criteria for analyst experience in the Lab QA Program are necessary, whether systems are experiencing difficulty in finding laboratories that have passed the Lab QA Program to conduct *Cryptosporidium* analysis, and whether any of the Lab QA Program criteria should be revised to improve the LT2ESWTR lab approval process.

#### State Programs To Approve Laboratories for *Cryptosporidium* Analysis

Under today's proposal, systems must have *Cryptosporidium* samples analyzed by a laboratory approved under EPA's Lab QA Program, or an equivalent State laboratory approval program. Because States do not currently approve laboratories for *Cryptosporidium* analyses, EPA will initially assume responsibility for *Cryptosporidium* laboratory approval. EPA expects, however, that States will adopt equivalent approval programs for *Cryptosporidium* analysis under State laboratory certification programs. EPA requests comment on how to establish that a State approval program for *Cryptosporidium* analysis is equivalent to the Lab QA Program.

Specifically, should EPA evaluate State Approval programs to determine if they are equivalent to the Lab QA Program? EPA also requests comment

on the elements that would constitute an equivalent State approval program for *Cryptosporidium* analyses, including the following: (1) Successful analysis of initial and ongoing blind proficiency testing samples prepared using flow cytometry, including a matrix and meeting EPA's pass/fail criteria (described in USEPA 2002c); (2) an on-site evaluation of the laboratory's sample processing and analysis procedures, including microscopic examination skills, by auditors who meet the qualifications of a principal analyst as set forth in the Lab QA Program (described in USEPA 2002c); (3) an on-site evaluation of the laboratory's personnel qualifications, quality assurance/quality control program, equipment, and recordkeeping procedures; (4) a data audit of the laboratories' QC data and monitoring data; and (5) use of the audit checklist used in the Lab QA Program or equivalent.

#### M. Requirements for Sanitary Surveys Conducted by EPA

##### 1. Overview

In today's proposal, EPA is requesting comment on establishing requirements for public water systems with significant deficiencies as identified in a sanitary survey conducted by EPA under SDWA section 1445. These requirements would apply to surface water systems for which EPA is responsible for directly implementing national primary drinking water regulations (*i.e.*, systems not regulated by States with primacy). As described in this section, these requirements would ensure that systems in non-primacy States, currently Wyoming, and systems not regulated by States, such as Tribal systems, are subject to standards for sanitary surveys similar to those that apply to systems regulated by States with primacy.

##### 2. Background

As established by the IESWTR in 40 CFR 142.16(b)(3), primacy States must conduct sanitary surveys for all surface water systems no less frequently than every three years for community water systems and no less frequently than every five years for noncommunity water systems. The sanitary survey is an onsite review and must address the following eight components: (1) Source, (2) treatment, (3) distribution system, (4) finished water storage, (5) pumps, pump facilities, and controls, (6) monitoring, reporting, and data verification, (7) system management and operation, and (8) operator compliance with State requirements.

Under the IESWTR, primacy States are required to have the appropriate rules or other authority to assure that systems respond in writing to significant deficiencies outlined in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey (40 CFR 142.16(b)(1)(ii)). Further, primacy States must have the authority to assure that systems take necessary steps to address significant deficiencies identified in sanitary survey reports if such deficiencies are within the control of the system and its governing body (40 CFR 142.16(b)(1)(iii)). The IESWTR did not define a significant deficiency, but required that primacy States describe in their primacy applications how they will decide whether a deficiency identified during a sanitary survey is significant for the purposes of the requirements stated in this paragraph (40 CFR 142.16(b)(3)(v)).

EPA conducts sanitary surveys under SDWA section 1445 for public water systems not regulated by primacy States (*e.g.*, Tribal systems, Wyoming). However, EPA does not have the authority required of primacy States under 40 CFR 142 to ensure that systems address significant deficiencies identified during sanitary surveys. Consequently, the sanitary survey requirements established by the IESWTR create an unequal standard. Systems regulated by primacy States are subject to the States' authority to require correction of significant deficiencies noted in sanitary survey reports, while systems for which EPA has direct implementation authority do not have to meet an equivalent requirement.

##### 3. Request for Comment

In order to ensure that systems for which EPA has direct implementation authority address significant deficiencies identified during sanitary surveys, EPA requests comment on establishing either or both of the following requirements under 40 CFR 141 as part of the NPDWR established in the final LT2ESWTR:

(1) For sanitary surveys conducted by EPA under SDWA section 1445, systems would be required to respond in writing to significant deficiencies outlined in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey.

(2) Systems would be required to correct significant deficiencies identified in sanitary survey reports if such deficiencies are within the control of the system and its governing body.