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93^d CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 93-
 2d Session } 1185 Part 2

SAFE DRINKING WATER ACT

AUGUST 15, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 13002]

COST ESTIMATES

This portion of the supplemental report corrects the table of 5-year cost projections for the bill (H.R. 13002), as reported, which appears on page 9 of the report submitted on July 10, 1974 (H. Rept. 93-1185, pt. 1).

In accordance with clause 7(a)(1) of rule XIII of the Rules of the House of Representatives, the following estimates of the costs that will be incurred by the Environmental Protection Agency in carrying out H.R. 13002, as amended by the committee, are submitted:

5-YEAR COST PROJECTS—H.R. 13002, SAFE DRINKING WATER ACT

[In millions of dollars]

	1975	1976	1977	1978	1979
Standards (1412, 1421, 4).....	1.7	2.4	2.5	2.5	3.5
Monitoring and enforcement (1413, 1414, 1415, 1416, 1423, 1424, 1441, 1445).....	3.6	9.4	12.0	15.0	15.0
Emergency powers (1431).....	.6	1.2	1.2	1.2	1.2
Research, demonstrations, and technical assistance (1442, 1444, 3).....	15.0	25.0	35.0	48.0	46.0
Program grants (1443).....		18.7	25.6	34.6	20.6
Total.....	20.9	55.7	76.3	101.3	82.3

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This portion of the supplemental report shows changes in existing law made by the bill (H.R. 13002), as reported, which were incorrectly stated in the report submitted July 10, 1974 (H. Rept. 83-1185, pt. 1). Matter underlined was either omitted or incorrectly stated in part 1 of the report.



PUBLIC HEALTH SERVICE ACT

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

EXEMPTIONS

Sec. 1416. (a) * * *

(d)(1) * * *

(2)(A) *If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—*

(i) *identify each exempt public water system with respect to which the finding was made,*

(ii) *specify the reasons for the finding, and*

(iii) *as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.*

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

Sec. 1444. (a) * * *

(d) *The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed \$10,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed \$10,000,000. The Administrator shall prescribe regulations to carry out this subsection.*

The description of section 1444(d) contained on page 40 of the report filed on July 10, 1974, is also incorrect. The last sentence of the last paragraph of the description of section 1444 in that report should read as follows: "The bill contains a \$10,000 limit on the aggregate amount of indebtedness which may be guaranteed for any single public water system and a \$10,000,000 limit on the aggregate amount of indebtedness which may be guaranteed under section 1444."



SAFE DRINKING WATER ACT

JULY 10, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 13002]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 13002) to amend the Public Health Service Act to assure that the public is provided with safe drinking water, having considered the same, report favorably thereon with one amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts a new text which appears in italic type in the reported bill.

PURPOSE OF LEGISLATION

The purpose of the legislation is to assure that water supply systems serving the public meet minimum national standards for protection of public health. At present, the Environmental Protection Agency is authorized to prescribe Federal drinking water standards only for water supplies used by interstate carriers. Furthermore, these standards may only be enforced with respect to contaminants capable of causing communicable disease. In contrast, this bill would (1) authorize the Environmental Protection Agency to establish Federal standards for protection from all harmful contaminants, which standards would be applicable to all public water systems, and (2) establish a joint Federal-State system for assuring compliance with these standards and for protecting underground sources of drinking water.

BRIEF SUMMARY

In summary, this legislation would—

(1) (a) require the Administrator of the Environmental Protection Agency to prescribe national primary drinking water regulations for contaminants which may adversely affect the public health;

(b) provide that such regulations are to apply to public water systems and are to protect health to the maximum extent feasible;

(c) provide that interim primary regulations are to be prescribed initially and that, after a study by the National Academy of Sciences, health goals (recommended maximum contaminant levels) are to be established and revised primary regulations are to be promulgated;

(d) provide that primary regulations are to include a maximum contaminant level, if it is feasible to monitor the level of that contaminant, or treatment technique requirements, if such monitoring is not feasible for that contaminant;

(e) require primary regulations to include criteria and procedures to assure compliance with the preceding requirements;

(f) authorize States which adopt and implement adequate standards and enforcement measures to grant certain variances from the national regulations, to grant exemptions to extend the time for compliance by any public water system, and to establish compliance schedules, including interim control measures and increments of progress;

(g) authorize the Administrator to grant variances and exemptions in any State which fails to adopt and implement adequate standards and enforcement measures;

(h) authorize the Administrator to enforce national primary drinking water regulations when a State fails to assure timely compliance with at least equally stringent requirements;

(2) authorize the Administrator to prescribe secondary drinking water regulations designed to provide guidance to the States, but which are not to be Federally enforceable;

(3) establish Federal-State programs to protect underground sources of drinking water;

(4) authorize the Administrator on a temporary basis to certify the need for chlorine (or other water treatment substances) to be allocated to public water systems and require the President (or his delegate) to issue necessary allocation orders;

(5) provide for Federal grants to assist State surveillance and enforcement programs under the bill; and

(6) provide for certain additional grants, loan guarantees, research and demonstrations to assist in carrying out the above purposes.

In general the bill provides for informal rulemaking procedures in accordance with 5 U.S.C. 553, except in the case of actions required by the bill to be taken on the record after notice and opportunity for a hearing.

LEGISLATIVE BACKGROUND

a. The 92d Congress

During the 92d Congress, the Subcommittee on Public Health and Environment held two sets of hearings on bills relating to protection of the public health through assurance of safe community drinking water supplies. On May 24, 25, and 26, 1971, the Subcommittee held hearings on H.R. 1093, H.R. 5454, and H.R. 437. On May 10, 1972, a clean bill, H.R. 14899 was introduced. Supplemental hearings upon that bill were conducted June 7 and 8, 1972. None of the aforementioned bills were ordered reported by the full committee during the 92d Congress.

b. The 93d Congress

On January 3, 1973, Representatives Rogers, Kyros, Preyer, Symington, Roy, Nelsen, Hastings, and Robison introduced H.R. 1059—the "Safe Drinking Water Act."

The Administration's bill, H.R. 5368, was introduced by Representatives Staggers and Devine, by request, on March 7, 1973. An identical bill, H.R. 5395, was introduced on March 8, 1973, by Representative Carter.

Hearings on these bills were held before the Subcommittee on Public Health and Environment on March 8 and 9, 1973.

Subsequently, the Subcommittee ordered reported as clean bills, H.R. 9726 and H.R. 10955. Each of these represented modified versions of H.R. 1059. Finally, on February 21, 1974, a new clean bill, H.R. 13002, was introduced by Representatives Rogers, Kyros, Preyer, Symington, Roy, Nelsen, Carter, Hastings, Heinz, Hudnut, Gunter, and Robison and was ordered reported by the Subcommittee to the Committee on Interstate and Foreign Commerce.

On June 20, 1974, the Committee by voice vote (one member dissenting) ordered reported H.R. 13002, as amended.

Comparable legislation (S. 433) was passed by voice vote of the Senate on June 22, 1973.

NEED FOR LEGISLATION

The Committee has concluded that present legislative authority is inadequate to assure that the water supplied to the public is safe to drink.

Section 361 of the Public Health Service Act authorizes the Secretary of the Department of Health, Education, and Welfare to "make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases." Pursuant to this provision, the Secretary promulgated regulations establishing standards for drinking water supplied to and by interstate carriers. See 42 C.F.R. § 72, Subpart H. Under Reorganization Plan No. 3 of 1970, the authority to establish and revise drinking water standards for interstate carriers was transferred to the Administrator of the Environmental Protection Agency.

The Department of Health, Education, and Welfare had interpreted this authority as permitting enforcement of standards only with respect to contaminants which may cause or carry a communicable disease. Standards for contaminants which could cause chemical poisoning or other non-communicable disease were held by the Office of General Counsel not to be enforceable. This opinion has not been reversed by EPA's Office of General Counsel.

Moreover, there is no provision in Federal law to protect members of the public who are not traveling on interstate conveyances from being supplied with drinking water which may cause communicable or noncommunicable illness, although it is arguable that existing authority under section 361 of the Public Health Service Act could be utilized in a more expansive way to deal with part of the problem of unsafe drinking water.

Some progress has been made in protecting underground sources of drinking water. Recent amendments to the Federal Water Pollution Control Act (section 402(b)(1)(D) of the Act, as amended by P.L. 92-500) have required States seeking to operate their own discharge permit programs to "control the disposal of pollutants into wells." Moreover, EPA is required to review State applications to operate such permit systems and may disapprove such applications if the requirements of that Act are not met.

However, while it appears that EPA may prescribe its own program to control the disposal of pollutants into wells if it disapproves a State's permit authority application, this conclusion has not yet been reached in any judicial decision. Moreover, the Federal Water Pollution Control Act's restrictive definition of pollutant may prevent any Federal control system from adequately protecting underground drinking water sources. Finally, it appears that the Federal Water Pollution Control Act may not authorize any regulation of deep well injection of wastes which is not carried out in conjunction with a discharge into navigable waters. See U.S.E.P.A., *Opinion of Acting Deputy General Counsel*, #590, December 13, 1973. For these reasons and for the reasons which follow, the Committee has determined that broadened and strengthened legislation to assure safe drinking water is necessary.

Until relatively recently the fundamental elements of life—clean air to breathe, safe water to drink—have been taken for granted in the United States. However, recent investigations demonstrate that public confidence in the safety of drinking water supplies may, in many instances, be misplaced.

During the ten-year period 1961-1970, there were 130 outbreaks of disease or poisoning attributed to drinking water. These outbreaks resulted in 46,374 illnesses and 20 deaths. On the average, this represents one reported waterborne outbreak per month with something over 350 persons becoming ill.*

Furthermore, in August 1970, the Department of Health, Education, and Welfare completed a representative sampling of the Nation's public water supply systems. In all, 969 systems were studied. The major findings of the study were as follows:

Quality of water being delivered

Thirty-six percent of 2,600 individual tap water samples contained one or more bacteriological or chemical constituents exceeding the limits in the Public Health Service Drinking Water Standards (established under section 361 of the Public Health Service Act).

Nine percent of these samples contained bacterial contamination at the consumer's tap evidencing potentially dangerous quality.

Thirty percent of these samples exceeded at least one of the chemical limits indicating waters of inferior quality.

*It should be noted, however, that these figures represent only those incidents: (1) that have been reported; (2) that involve at least two cases of communicable disease; and (3) for which an epidemiological investigation was performed and the waterborne route established as the cause. Figures from the Center for Disease Control for the 1961-1970 period indicated only 72 outbreaks and 23,374 cases; this is only one-half the number that was ultimately found after the Environmental Protection Agency made a review of medical and engineering literature, searched newspaper clippings, and contracted State sanitary engineers and epidemiologists.

Eleven percent of the samples drawn from 94 systems using surface waters as a source of supply exceeded the recommended organic chemical limit of 200 parts per billion.

Status of physical facilities

Fifty-six percent of the systems evidenced physical deficiencies including poorly protected groundwater sources, inadequate disinfection capacity, inadequate clarification capacity, and/or inadequate system pressure.

In the eight metropolitan areas studied, the arrangements for providing water service were archaic and inefficient. While a majority of the population was served by one or a few large systems, each metropolitan area also contained small inefficient systems.

Operators' qualifications

Seventy-seven percent of the plant operators were inadequately trained in fundamental water microbiology; and 46 percent were deficient in chemistry relating to their plant operation.

Status of community programs

The vast majority of systems were unprotected by programs to prevent drinking water supply pipes from being cross-connected with sewage or storm drainage pipes, programs for plumbing inspection on new construction, or programs for continuing surveillance of public water system operations.

Status of State inspection and technical assistance programs

Seventy-nine percent of the systems were not inspected by State or county authorities in 1968, the last full calendar year prior to the study. In 50 percent of the cases, plant officials did not remember when, if ever, a State or local health department had last surveyed the supply.

An insufficient number of bacteriological samples were analyzed for 85 percent of the water systems—and 69 percent of the systems did not even analyze half of the numbers required by the PHS Drinking Water Standards.

Small systems

Similar problems have been discovered with respect to small systems which serve the public, such as recreational areas, trailer parks, restaurants and gas stations, but which are not part of a community water supply system. A recent EPA study of drinking water systems at recreational sites operated in conjunction with Corps of Engineers reservoirs revealed that 19% of the systems did not meet the bacteriological limits of the Drinking Water Standards. A similar study of drinking water systems at Bureau of Reclamation Reservoirs shows that 12% did not meet the bacteriological standards. Only 7% of the systems practiced a bacteriological surveillance program meeting the Drinking Water Standards. A third study of semi-public water systems along interstate highways, including highway rest stops, showed that fifteen percent of these systems failed to meet the bacteriological limit of the Drinking Water Standards.

On November 15, 1973, the General Accounting Office reported that potentially hazardous water is being delivered to some consumers, particularly by small water supply systems serving populations of

5,000 or less. Of 446 systems studied, GAO found that only 60 were in compliance with both Federal bacteriological and sampling requirements. See Report to the Congress by the Comptroller General of the United States, *Improved Federal and State Programs Needed To Insure the Purity and Safety of Drinking Water in the United States* (Nov. 15, 1973).

Reasons for findings

There appear to be multiple reasons for these findings. First, the public has not been made adequately aware of the potential danger to health to which it is exposed from drinking contaminated or inadequately treated water. This in turn has resulted in a lack of demand for public and private action to correct and prevent the public health threat in drinking water.

Second, in many cities and small towns reasonably available treatment technology, techniques, and other safeguards are not being applied to assure safe water. Third, for some constituents of water adequate treatment technology has not been developed or is too costly for general use. Fourth, certain economic, industrial, agricultural, and environmental practices have resulted in increasing concentrations of potentially harmful chemicals entering the Nation's drinking water sources. Environmental requirements limiting atmospheric and surface disposal of waste have made underground disposal practices more attractive from an economic standpoint. Fifth, new compounds, such as the various herbicides, pesticides, and mercury, have been introduced into the environment before full knowledge of their ultimate health effects are known.

In addition to these factors, government at all levels—Federal, State, regional, local—have not developed, applied, and enforced adequate standards and procedures for protection of the public's health.

The USPHS Drinking Water Standards, while recognized as the most authoritative set of standards for drinking water in use in this country today, do little more than mention viruses, do not contain limits for numerous inorganic chemicals which are known to be toxic to man, and identify only one index to cover the entire family of organic chemical compounds. These standards need continuous updating and broadening to include limits for all known or potentially dangerous constituents found in sources of raw water supply and in treated drinking water.

There is no Federal statutory authority and many of the States lack authority to require compliance with existing standards by public water systems. While the Federal Government can, and does, prohibit interstate carriers from using water from unsafe community water supply systems, it cannot protect the citizens living in these communities from using potentially dangerous water. Nor can the Federal Government even require that citizens be notified of such unsafe condition. Between July 1, 1970 and December 19, 1973, 54 interstate carrier water supply systems were classified "use prohibited" for various periods of time on the ground that they presented an unreasonable threat to the health of the traveling public.

The States, which have the primary responsibility to supervise water supplies, have authority and regulations that range from good to very poor. A review of State drinking water standards, performed in 1971,

indicated that only 14 had officially adopted the USPHS Drinking Water Standards. Enforcement of these regulations is frequently poor.

Sufficient surveillance of community water systems by public agencies at all levels of government has likewise been lacking. The EPA Community Water Supply Study revealed that an insufficient number of bacteriological samples were taken in more than one of the previous 12 months at 85% of the systems studied. In the area of chemical analysis, only 10% of the systems studied had the benefit of complete chemical analysis in 1968. Most of the remaining 90% had little or no idea what the chemical quality of their drinking water was. In this same year, only one out of five of these supplies benefited from an engineering survey visit. In the case of over half of the supplies a sanitary survey had never been performed or the system operator did not know if one had ever been done.

A 1970 survey by the Conference of State Sanitary Engineers indicated that most state sanitary engineers judged their own surveillance program to be deficient.

The value of surveillance is illustrated by comparing the supplies studies in the Community Water Supply Study with interstate carrier water supplies. The Interstate Quarantine Regulations require annual evaluation and certification of supplies serving interstate carriers. As a result, these supplies receive improved surveillance as compared to other community supplies. Bacteriological quality of the Community Water Supply Study systems failed to meet the standards twice as often as those of the interstate carrier program.

Still another aspect of the problem of unsafe drinking water is the difficulty which many public water systems have experienced in recent months in obtaining adequate supplies of chlorine and other substances necessary for effective treatment of contaminants. According to the Environmental Protection Agency, in the past year 57 water and wastewater utilities had reported shortages of chlorine (down to 1-10 days' supply on hand) and 33 wastewater and four public water supply treatment systems were reported to have ceased chlorinating for periods up to two weeks. It appears that only a portion of the shortages have been reported to EPA. Among the cities experiencing such shortages have been Denver, Jersey City, Newark, Chicago, and New York, and many smaller public water supply systems. Increased demand from private industry, delay in the construction of new chlorine production facilities, and downtime in existing facilities have contributed to this problem. Moreover, existing authorities probably do not permit Federal authorities to allocate chlorine and other necessary substances in order to assure protection of the public's health.

Other problems which increase the potential health risk from drinking water are lack of adequate training and certification procedures for water supply system operators, lack of adequate, inexpensive monitoring or measurement methods, the proliferation of small water systems which cannot support well-trained full-time operators and necessary equipment, inadequate health effects research, and the increasing demand for drinking water at a time of increasing pressure to dispose of contaminants in ways that may endanger the quality of drinking water.

Need for Congressional action

The lack of comprehensive cost, health effects, technological assessment, and monitoring data cannot justify any further delay in Congressional and administrative action. While it would be desirable to have complete health effects research, effective treatment technology, and accurate, inexpensive monitoring systems in operation prior to commencing a system of regulation, this is simply not possible. It is the Committee's intent that EPA, the States, and the public water systems begin now to maximize protection of the public health insofar as possible and to continue and expand these efforts as new more accurate data, technology, and monitoring equipment become available.

While the Committee views the problem of unsafe drinking water as a matter which is and should be primarily the concern of State and local governments, the Committee has determined that the Federal government also has a responsibility to ensure the safety of the water its citizens drink. In the Committee's view, this responsibility arises from two main factors. First, the causes and effects of unhealthy drinking water are not confined within the borders of State or local jurisdictions. Second, the solution to the problem of unsafe drinking water, in the Committee's view, must be found in a cooperative effort in which the Federal government assists, reinforces, and sets standards for the State and local efforts.

That the causes and effects of unhealthy drinking water are national in scope is evident from a variety of facts. Federal air and water pollution control legislation have increased the pressure to dispose of waste materials on or below land, frequently in ways, such as subsurface injection, which endanger drinking water quality. Moreover, the national economy may be expected to be harmed by unhealthy drinking water and the illnesses which may result therefrom. This is the case for several reasons. First, outbreaks of waterborne disease are likely to inhibit interstate travel and tourism in or through the areas in which the water is unsafe. Second, the economic productivity of those engaged in interstate commerce or activities affecting commerce is likely to be diminished to the extent that unsafe drinking water causes illness and absence from the place of employment. Third, agricultural employees who migrate across State lines may properly be reluctant to work in areas with only contaminated water supplies. Those who have contracted communicable disease may be barred from entering other States. Fourth, diseases caused by contaminated drinking water may be communicable beyond State lines. Fifth, contaminants which endanger the public health when present in drinking water are frequently generated by business engaged in or enterprises affecting interstate commerce. Sixth, the unavailability of a reliably safe drinking water supply may well be a primary limiting factor in the economic growth of a town or region and ultimately in the growth of the Nation's economy.

Other factors also illustrate the need for national concern about unsafe drinking water. Underground drinking sources which carry contaminants may cross State boundaries. In general, water in the hydrologic cycle does not respect State borders. The Nation also has an important fiscal interest in minimizing drinking water related disease, since such disease may well contribute significantly to the drain on the Federal health care financing system—Medicare, Medi-

caid, etc.—unless the quality of the Nation's drinking water supplies is protected.

These concerns are not merely speculative potentialities in the Committee's view. The hearing records on safe drinking water legislation are replete with examples of these problems having actually occurred.

Moreover, it is abundantly clear that additional Federal assistance, research, and support is necessary in order to enable State and local efforts to provide safe water to be successful. Under these circumstances, the Committee finds that the Federal government must bear a shared responsibility with State and local governments to ensure protection of the public's health and the safety of drinking water supplies.

It is true that some existing Federal programs do relate to drinking water supply systems. Federal agencies with a significant involvement in drinking water supply are the Farmers Home Administration, the Department of Housing and Urban Development, and the Economic Development Agency. The Indian Health Service in the Department of Health, Education, and Welfare operates a direct construction program to provide sanitation facilities to Indian and Alaskan natives. However, in the Committee's view these grant programs to construct drinking water supply systems are not necessarily adequate to assure that safe drinking water will be available, even from those systems which are constructed with such aid.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), your Committee estimates that the following costs will be incurred in carrying out the functions assigned to the Environmental Protection Agency by H.R. 13002 as amended by the Committee.

5-YEAR COST PROJECTIONS—H.R. 13002 SAFE DRINKING WATER ACT

(Dollars in millions)

	1974	1975	1976	1977	1978
Standards (1212, 1221, 4).....	\$1.7	\$2.4	\$2.5	\$2.5	\$3.5
Monitoring and enforcement (1213, 1214, 1215, 1223, 1224, 1237).....	3.6	9.4	12.0	15.0	15.0
Emergency powers (1231).....	.6	1.2	1.2	1.2	1.2
Research, demonstration, technical assistance, (1232, 1234, 3).....	15.3	36.7	48.0	48.0	46.0
Program grants (1233).....	.6	11.7	14.6	24.6	34.6
Total.....	21.8	61.4	78.3	91.3	100.3

SECTION-BY-SECTION ANALYSIS OF THE REPORTED BILL

Section 1. Short title

The first section of H.R. 13002, as reported by the committee, provides that this legislation may be cited as the "Safe Drinking Water Act".

Section 2. Public water systems

This section amends the Public Health Service Act by inserting a new title XIV.

PART A—DEFINITIONS

SECTION 1401 DEFINITIONS

"Primary drinking water regulations"

Section 1401 of the new title defines "primary drinking water regulation" as a national regulation which is intended to protect health to the maximum extent feasible. This definition, which applies to both interim and revised primary regulations under section 1412, establishes the crucial framework for regulation under the Act.

The definition provides that primary regulations apply to "public water systems", which is also a defined term. Primary regulations must specify contaminants which in the judgment of the Administrator may have an adverse effect on the health of persons when found in drinking water. The words used by the Committee were carefully chosen. Because of the essentially preventive purpose of the legislation, the vast number of contaminants which may need to be regulated, and the limited amount of knowledge presently available on the health effects of various contaminants in drinking water, the Committee did not intend to require conclusive proof that any contaminant *will* cause adverse health effects as a condition for regulation of a suspect contaminant. Rather, all that is required is that the Administrator make a reasoned and plausible judgment that a contaminant *may* have such an effect. Moreover, the contaminant need not have the adverse effect directly in order for the Administrator to regulate it as a primary contaminant. If it is a precursor to a contaminant which may have such effect or if it may contribute to such effect, the contaminant should be controlled under primary regulations.

Such a judgment may be based upon epidemiological, toxicological, physiological, biochemical, or statistical research or studies or extrapolations therefrom. (Thus, for example, such a judgment may be based on evidence of either animal or human toxicity or disease.) Such a judgment may alternatively be based on knowledge concerning behaviors of groups of contaminants or behaviors of analogous contaminants or behaviors of the same contaminants in other media.

It must be noted that more than 12,000 chemical compounds are now being used commercially, not counting additional variants and fractions. About 500 new chemical compounds are added each year. Many of these will find their way into the nation's drinking water supplies. It is, of course, impossible for EPA to regulate each of these contaminants which may be harmful to health on a contaminant-by-contaminant basis. Therefore, the Committee anticipates that the Administrator will establish primary drinking water regulations for some groups of contaminants, such as organics and asbestos. The establishment of such group-wide regulations should help to assure that the public health will be protected from currently undiscovered, unidentified or under-researched subgroups or specific contaminants within the group.

However, the Committee believes that effective and adequate protection of the public health can only be assured by a comprehensive approach to standard setting. In the Committee's view, such an approach must combine such group-wide regulations with regulations for certain sub-groups and specific contaminants within the group of

substances being regulated. These regulations are needed both for those sub-groups and contaminants which are most prevalent in drinking water supplies and also for those which are very hazardous at low concentrations (carcinogens, for example).

Thus, for example, the Committee anticipates that revised national primary drinking water regulations would include regulation of organics as a group and subgroups, such as haloethers, polycyclic aromatic hydrocarbons, and nitrosamines.

In prescribing which groups, subgroups, and specific contaminants will be subject to revised regulations, the Administrator is expected to include those substances contained in World Health Organization, *Maximum Permissible Concentrations of Harmful Substances in the Water of Watercourses Used for Hygienic and Domestic Purposes* (1970); World Health Organization, *European Standards for Drinking Water*, 2d Ed., Rev., Geneva (1970); National Institute of Occupational Safety and Health annual list of toxic substances; and toxic substances listed under section 307 of the Federal Water Pollution Control Act. If the Administrator determines not to include any of these substances in the revised primary regulations, the Committee anticipates that he would publish such determination along with the reasons for finding such regulation to be unnecessary. However, the Committee does not intend the Administrator to publish a separate determination and statement of reasons for each identified substance which is not included in the revised regulations. Rather, the Committee expects the fullest possible explanation on a group or class basis of why the identified substances have been omitted.

The Committee, of course, anticipates that all contaminants currently subject to interstate carrier drinking water regulations or to recommended standards would be controlled under both interim and revised regulations, unless the Administrator finds that no health threat may be posed by any such contaminant. In addition, all other contaminants which the Administrator judges may have an adverse effect on the health of persons should be regulated as soon as possible.

Maximum contaminant level or treatment techniques

Once the Administrator specifies contaminants, including groups and subgroups thereof, subject to national primary drinking water regulations, he must prescribe for each contaminant a maximum contaminant level. The only circumstance in which a maximum contaminant level is not to be prescribed for any contaminant is if he finds that it is not technologically or economically feasible for most public water systems to monitor for that contaminant. If the Administrator so finds, he must prescribe regulations which (1) list all known treatment techniques for that contaminant which meet the requirement of section 1412 concerning maximum feasible protection of the public health, and (2) require the use of at least one of those listed.

For the purposes of making the finding regarding the feasibility of monitoring for any given contaminant, the Administrator must first determine, with respect to a given contaminant, what effective monitoring techniques, if any, are technologically available. Next the Administrator must determine at what frequencies such techniques should be employed to assure detection of any violation prior to the time such violation will actually cause or contribute to any signifi-

cantly increased health hazard. Then the Administrator must determine whether such monitoring at such frequency is economically feasible.

One example of a group of contaminants for which monitoring might be judged to be infeasible would be viruses, which are currently prohibitively expensive to isolate and measure on a routine basis. Therefore, the Committee expects that the Administrator would prescribe all known treatment techniques for controlling viruses rather than establishing a maximum contaminant level for viruses. A second example might be as follows: where several specific contaminants occur within a general group, the cumulative expense of monitoring for each individual contaminant might similarly lead to a judgment that such contaminants are ones for which treatment technique regulations should be prescribed. Treatment techniques which the Administrator is authorized to prescribe should include appropriate provision for storage and distribution techniques.

If in the Administrator's judgment, however, it is economically and technologically feasible to monitor for any contaminant (or group or subgroup), he is directed to prescribe a maximum contaminant level for that contaminant. Of course, in this case, the Administrator would be expected to require public water systems to use at least one of the monitoring techniques which he has judged to be feasible.

The choice as to which of the permissible treatment techniques should be used by any public water system would be left essentially to that system (and to State and local policy). Moreover, under section 1415 if a system (or any other person including a vendor) could demonstrate that any other treatment technique not listed by the Administrator was at least as effective as those listed by him, then that technique could be used under a variance which the Administrator would be authorized to issue. If, on the other hand, the Administrator finds monitoring for any contaminant is not feasible (economically or technologically), he must prescribe the full range of available treatment techniques which he determines meet the requirements of section 1412.

Assumed intake water quality

In prescribing national primary drinking water regulations the Administrator must make some assumptions about the quality of the intake waters which will be processed by the treatment techniques which he has found to be generally available. The Committee recognizes that intake water quality is likely to vary throughout the Nation. If the Administrator were to assume that intake waters would in general be extremely contaminated, then many areas which are relatively clean could meet the maximum contaminant levels which the Administrator would prescribe without the use of the most effective treatment methods. This result would be inconsistent with the Committee's overriding intent to maximize protection of the public health. The Committee does not intend that primary regulations be set at levels which would permit systems with relatively clean intake water sources to provide water which is more contaminated than the recommended maximum contaminant level (i.e., the health goal which is to be established by the Administrator after consideration of the report of the National Academy of Sciences pursuant to section 1412(b)(1) of the

bill), unless those systems have been required to utilize the most effective generally available treatment methods.

Therefore, it is the intent of the Committee that the Administrator, in prescribing national primary drinking water regulations, assume that intake waters will be sufficiently uncontaminated so that with application of the most effective treatment method(s) a public water system would be able to protect the public health (including attainment of the recommended maximum contaminant levels).

This policy may in some instances result in those public water systems with extremely contaminated intake water sources being unable to comply with national primary drinking water regulations. In light of this policy, the Committee has authorized variances for public water systems which cannot comply with the regulations due to poor source water quality. The Committee anticipates that full implementation of the Federal Water Pollution Control Act, selection of alternative intake water sources, and other legal or technological measures will enable most systems to achieve the requisite intake water quality within a period of three to six years at the latest.

Other requirements

In addition, under section 1401 "primary drinking water regulations" must contain enforceable requirements for quality control, testing (including monitoring,* if feasible) proper operation and maintenance, siting for new facilities, and intake water quality minimum requirements for public water systems. It is the belief of the Committee that these safeguards may be essential to assure that public water systems dependably supply safe drinking water. Such regulations are not intended to stifle diversity, innovation, or responsiveness to local conditions. Nor are such regulations intended to permit Federal dictation of the ideal water system. They are intended, however, to assure that all systems will meet the essential minimal criteria necessary to safeguard the public's health.

Intake water quality requirements

Thus, for example, in the Committee's view, regulation of the quality of raw water sources is not an end in itself; nor is it necessary for all contaminants. The Committee intends that intake water quality standards should be prescribed by EPA only for those contaminants for which the Administrator determines that existing treatment techniques may be inadequate to assure achievement of recommended maximum contaminant levels (i.e., health goals). If available techniques are adequate to achieve these levels regardless of the quality of the intake water to which the techniques are applied, then no intake water quality regulation should be prescribed.

In making this judgment, the Administrator should not undertake a water system-by-water system analysis. Rather, he should examine (on a contaminant-by-contaminant basis) the most contaminated raw water source which is likely to be used by a public water system. If use of the most efficient treatment techniques will permit the achievement of the health goal with respect to a given contaminant even from the most contaminated raw water source, then no intake water requirement

* Since drinking water regulations are intended to be met at the consumer's tap, the committee anticipates that monitoring would include tap sampling.

or limitation should be established by EPA with respect to such contaminant.

By providing for a carefully circumscribed exercise of authority by EPA, the Committee seeks to achieve the primary purpose of protection of the public health while leaving to State and local governments and the public water systems maximum flexibility in determining whether to achieve this purpose by reliance on clean source water, treatment technology, or other effective means.

Operating requirements

Likewise operating requirements which are authorized to be prescribed by EPA under this section should be as limited as possible while still permitting assurance that safe drinking water will be provided. Except with respect to those contaminants for which a treatment technique requirement is established rather than a maximum contaminant level, State, local, and public water system discretion should be constrained only to meet minimum criteria, such as those preventing the system from being left unattended by competent personnel or requiring regular cleaning of equipment and facilities. The technical details of how to operate an efficient public water system should not be dictated by regulations under this authority, except to the extent reasonably necessary to assure that treatment technique requirements promulgated as part of the national primary drinking water regulations are effectively implemented.

Siting requirements

The Committee likewise intends that EPA's regulation of siting for new facilities for public water systems be structured so as to effectuate the purpose of this legislation. This means that regulations should establish siting criteria only to the extent necessary to provide adequate assurance that public water systems will be able to provide a continuous supply of healthful drinking water. Such criteria should include considerations relating to protection from floods, earthquakes, fires, and other manmade and natural disasters which could cause breakdown of the public water system or a portion thereof.

The Committee does not intend to convey to EPA the authority to impose a siting permit system or to designate water system facility sites. Responsibility for such action rests with the public water systems and with State and local governments. EPA is expected merely to establish general siting criteria which must be considered in siting decisions and to establish the most limited or narrow system of procedural review necessary to assure compliance. Where a State has established adequate siting criteria and review procedures, the Committee intends EPA's review to be limited only to assuring that the State's criteria and review process are being implemented in good faith.

Moreover, the Committee anticipates that siting regulations established by EPA will be reasonable. If, for example, all areas in which a new facility might be located are subject to some risk of earthquake damage, the regulations should not flatly prohibit the location of the facility. Rather, they should encourage location in the portion of the area where such risk is minimized and should take into account construction techniques which may be available to minimize earthquake damage.

Furthermore, the EPA siting regulations should be designed to assure adequate consideration of disaster risks and of other considerations necessary to assuring healthful drinking water reliably. However, these considerations are not intended to be the exclusive factors dictating siting decisions. A variety of social, technological, environmental, legal, and economic considerations may legitimately enter into siting decisions by public water systems and State and local governments. EPA's siting regulations should be designed so as to maximize the likelihood that water meeting national primary drinking water regulations and recommended maximum contaminant levels will be delivered reliably to consumers. If legitimate considerations other than those contained in EPA's regulations dictate siting decisions which increase the risk of disaster damage (or other problems which could undermine assurance of a healthful and reliable drinking water supply system) and if the State and local government and public water systems have fairly taken account of such risk in their siting decisions, EPA's siting regulations should respect the State and local decisions.

Under no circumstances, however, may any siting decision exempt a public water system from the duty to comply with maximum contaminant level, treatment technique, or intake water quality regulations.

Quality control and testing requirements

In establishing quality control and testing procedures for the source, treatment, and distribution systems of public water systems, EPA should establish a minimum sampling frequency for each contaminant for which a maximum contaminant level has been set. More frequent monitoring should be required by regulation for classes of systems facing local conditions which justify such increased monitoring. In prescribing regulations requiring more frequent monitoring or sampling than the minimum, the Administrator is expected to take into account, among other factors, the nature and type of the water source, historical data characterizing the water quality, anticipated variations in water quality, vulnerability of the source to accidental or deliberate contamination, the population at risk, the type of treatment provided, and the level of the contaminant which is generally found as it relates to the established limit.

Monitoring should insure to the extent feasible the detection of a violation before such violation causes or contributes to any adverse health effect. The Committee expects that the Administrator would require that, upon initial detection of a suspected violation, monitoring frequency would be increased.

Limitation on standard setting authority

The Administrator under this section would be prohibited from requiring the addition of any substance other than for the purpose of treating contaminants. Thus, EPA could not require the addition of fluorides or other substances to a public water system for medicinal purposes. Nor could EPA prevent the addition of fluorides or other substances up to the maximum amount allowable under a maximum contaminant level. While EPA could not require the addition of a substance for medicinal purposes, the Agency would have full authority to limit the addition of such a substance if necessary to prevent excessive levels from occurring or to prevent such substance from interfering with the effectiveness of any required treatment techniques.

"Secondary drinking water regulations"

Section 1401 also defines "secondary drinking water regulation". This is a regulation which establishes maximum allowable contaminant levels to protect the public welfare. Such regulations are intended to establish contaminant levels to prevent odor or appearance of drinking water which may cause a substantial number of persons served by the public water system providing such water to discontinue its use. These levels are intended as guidelines to the States. On the other hand, if a substance may cause or contribute to an interaction with pipes which may endanger public health, the Committee would anticipate that that substance would be regulated as a primary drinking water contaminant. Both primary and secondary drinking water regulations may be established for the same contaminant, if the statutory criteria are met.

"Public water system"

Section 1401 defines certain other terms, including "public water system". A "public water system" is a system which has 15 or more service connections or regularly serves 25 or more persons, regardless of whether the system is publicly or privately owned or operated. This definition, thus, encompasses nearly all public accommodations, such as restaurants, motels, and trailer parks which serve the public.

"Contaminant"

Section 1401 defines "contaminant" to mean "any physical, chemical, biological, or radiological substance or matter in water." This, of course, would include any radioactive materials whether or not they originated from any source under the jurisdiction of the Atomic Energy Commission.

"Municipality"

Section 1401 (10) defines "municipality" to mean "a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law." In the Committee's view, this definition would include counties, boroughs, and parishes, since these entities are created by or pursuant to State constitutional or statutory law.

PART B—PUBLIC WATER SYSTEMS

SECTION 1411. COVERAGE

Section 1411 provides that except insofar as variances may be granted under section 1415 or exemptions granted under section 1416, national primary drinking water regulations apply to each public water system in each State. The section also exempts any entity which would otherwise qualify as a "public water system" within the meaning of the bill, if it only distributes and stores water but does not collect, treat, or sell it and if it relies entirely on a public water system to provide the water which the entity ultimately makes available to the public.

Each of these three conditions specified in section 1411 must be met in order for a public water system to be exempt from the duty to comply with national primary drinking water regulations. Thus, for example, a municipal system which imposes water and sewage taxes or charges would not be exempt, because it sells water within the meaning of the section. Any distributor of water for human consumption, whether public or private, would be subject to the primary regulations unless he can show that he receives his water supplies from a system which is subject to the regulations and he does not charge consumers for the water that he provides. The purpose of this provision is to exempt from Federal regulation those facilities such as hotels, which merely by virtue of having a storage tank and acting as a conduit from public water system to consumer would otherwise be subject to Federal regulation as a public water system.

By this provision the Committee intends that primary regulations would apply to housing developments, motels, restaurants, trailer parks, and other businesses serving the public if the business in question maintains its own well or water supply. The Committee intends to exempt businesses which merely store and distribute water provided by others, unless that business sells water as a separate item or bills separately for water it provides.

SECTION 1412. NATIONAL DRINKING WATER REGULATIONS

Interim regulations

Section 1412 requires the Administrator of EPA to establish both interim and revised primary drinking water regulations. The Committee intends that the interim regulations be established quickly and, therefore, anticipates that these regulations would be based largely on a review and updating of the USPHS drinking water standards. Such a review has already been completed. EPA Advisory Committee on the Revision and Application of the Drinking Water Standards, as recommended to the Administrator, *Drinking Water Standards*, September 20, 1973. The Committee anticipates that the Advisory Committee recommendations would serve largely as the basis for the interim primary regulations.

On the other hand, the Committee intends that revised regulations contain a comprehensive program of control of drinking water contamination. Thus, the Committee has permitted a substantially longer period for development of the revised primary regulations.

National interim primary drinking water regulations are to be promulgated within 180 days after date of enactment of the bill. Promulgation is to be preceded by proposal and opportunity to comment in accordance with 5 U.S.C. § 553, and consultation with the Secretary of HEW and the National Drinking Water Advisory Council. National interim primary regulations take effect not later than one year after promulgation. These interim regulations must protect health to the maximum extent feasible using treatment methods which are generally available on the date of enactment. In determining what methods are generally available, the Administrator is directed to take costs into account.

Reasonable cost

It is evident that what is a reasonable cost for a large metropolitan (or regional) public water system may not be reasonable for a small system which serves relatively few users. The Committee believes, however, that the quality of the Nation's drinking water can only be upgraded if the systems which provide water to the public are organized so as to be most cost-effective. In general, this means larger systems are to be encouraged and smaller systems discouraged. For this reason, the Committee intends that the Administrator's determination of what methods are generally available (taking cost into account) is to be based on what may reasonably be afforded by large metropolitan or regional public water systems.

This, of course, means that some small water systems which cannot afford the methods determined by the Administrator to be "generally available" will be unable promptly to comply with all primary regulations. For this reason, authority to grant exemption from the effective date of the primary regulations and thus to delay the date for compliance by public water systems has been provided in section 1416. However, this period should be used to develop a regional water system which can afford to purchase and use such methods, to seek additional sources of funding such as State aid, or to develop a plan for otherwise serving the affected population after any existing inadequate system is closed.

It is not the Committee's intent to cause any area to be deprived of existing drinking water supply services. Thus, the Committee anticipates that during the next three years the States and localities and the Environmental Protection Agency will review this matter and will determine whether any additional legislative authorities are needed.

NAS study

The Committee was concerned that adequate data on the health effects of contaminants in drinking water is not now available. Section 1412(e), therefore, mandates the Administrator to make arrangements with the National Academy of Sciences to conduct a study of the maximum contaminant levels which should be allowed in drinking water. These levels should assure that the health of persons will be protected against known or anticipated adverse effects, allowing an adequate margin of safety.

In addition, the NAS is directed to develop a list of contaminants, the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons. The NAS list is to be considered by the Administrator in deciding whether to include such contaminants on his own list and thus whether to prescribe treatment technique requirements for such contaminant in a national primary drinking water regulation.

The results of the NAS study, including proposals for recommended maximum contaminant levels (i.e. health goals) are to be reported to Congress no later than two years after date of enactment.

In conducting its study and making its report, the NAS is directed to consider only what is required for protection of the public health, not what is technologically or economically feasible or reasonable. In the Committee's view, the question of what is necessary for adequate protection of the public health is and ought to be considered sep-

arately from the question of what degree of contaminant control is technologically or economically feasible.

The Committee wishes to ensure that the NAS report is based solely on considerations of public health and is not influenced by political, budgetary or other considerations. For these reasons, the prior release of any draft or the final report to any Federal agency (other than EPA) is prohibited.

The NAS is further directed to develop its proposals for recommended maximum contaminant levels so as to protect susceptible groups in the population; so as to take account of long-term exposures, exposures to contaminants in other media, and synergistic effects of multiple contaminants; so as to prevent body changes which are reasonably suspect of increasing the risk or severity of illness; and so as to incorporate an adequate margin of safety.

In recommending an adequate margin of safety, the National Academy of Sciences is directed to consider, among other factors, the margins of safety which are currently used in regulating foods and drugs, pesticides, radiation, air and water pollution, occupational exposures to contaminants, and other relevant regulatory systems. However, as in the rest of the study, economic or technological feasibility is not to be weighed in deciding how much margin of safety is necessary to give reasonable assurance that health of persons will be protected. Economic and technological feasibility are to be considered by EPA (and under section 1416 by the States) and then only for the purpose of determining how soon it is possible to reach recommended maximum contaminant levels and how much protection of the public health is feasible until then.

The NAS study should also examine and identify future research needs in the area of health effects of drinking water contamination. In this portion of its study, the NAS should consider not only what research is necessary on the effects of contaminants which have already been included in the USPHS drinking water standards; NAS should also consider the research needs for those other contaminants which the Academy concludes have the greatest potential for adverse effect on human health. Finally, the study should establish priorities for research needs and estimate the costs necessary to implement the recommended research program. In deciding which contaminants to include in the list for revised primary regulations, it is anticipated that the Administrator will carefully consider the recommendations of the Academy.

Recommended maximum contaminant levels

One hundred days after the NAS report is submitted to Congress, the Administrator must publish regulations, promulgated in accordance with 5 U.S.C. 553, establishing recommended maximum contaminant levels and listing the contaminants the level of which he finds cannot be determined in drinking water but which he determines may have an adverse effect on public health. The recommended maximum contaminant levels are goals which are to be set at levels sufficient to prevent the occurrence of any known or anticipated adverse health effects with an adequate margin of safety. They are to be based on the NAS report, but may differ from the NAS' proposals if the Adminis-

trator finds that adequate justification for such differences exists and if such finding is published and explained by the Administrator.

The incorporation of an adequate margin of safety is not to be confused with the anticipation of adverse health effects. Recommended maximum contaminant levels are to be established by a three-step process. First, the known adverse health effects of contaminants are to be compiled. Second, the Administrator must decide whether any adverse effects can be reasonably anticipated, even though not proved to exist. It is at this point that the Administrator must consider the possible impact of synergistic effects, long-term and multi-media exposures, and the existence of more susceptible groups in the population. Finally, the recommended maximum level must be set to prevent the occurrence of any known or anticipated adverse effect. It must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case, the recommended maximum contaminant level should be set at the zero level.

Revised regulations

The revised national drinking water regulations must be proposed at the time of promulgation of the recommended maximum levels. The revised regulations must be promulgated within 180 days after the proposal is published. Promulgation must be preceded by opportunity to comment in accordance with 5 U.S.C. § 553 and by consultation with the Secretary of HEW and the National Drinking Water Advisory Council. The revised primary regulations must specify the contaminant level (or treatment methods, if monitoring is infeasible) which provides maximum feasible protection for human health, using generally available methods of treatment or control.

These revised regulations take effect not later than one year after promulgation, except as provided in sections 1415 and 1416. In setting the revised regulations, the Administrator shall consider all technology that can be mass produced and put into operation in time for implementation of such regulations.

The promulgation of revised regulations for any contaminant will not automatically revoke interim regulations applicable to that contaminant. Only if the Administrator's revised regulations expressly provide that the interim regulations are superceded would such interim regulations cease to be effective. In deciding whether or not to supercede interim regulations, the Administrator should consider the length of time which they have been in effect, the amount of money spent to comply with such regulations, the compatibility of compliance strategies and techniques for meeting interim and revised regulations, and other appropriate factors, in addition to the public health implications of leaving the interim regulations in effect. If interim regulations remain in effect when revised regulations are promulgated, each public water system would be required to comply with both interim and revised regulations in accordance with the timetables and under the conditions set forth in the bill.

Secondary regulations

Finally, section 1412 requires the Administrator to propose national secondary drinking water regulations within 270 days after enactment and to promulgate such regulations within 90 days thereafter.

SECTION 1413. STATE PRIMARY ENFORCEMENT RESPONSIBILITY

It is the Committee's intent that States and public water systems take the primary responsibility for assuring the safety of the Nation's drinking water supplies. While Federal standard setting and back-up enforcement is authorized, the Committee is hopeful that State and Federal cooperation will be the rule and that the States will take the lead in adopting standards, reviewing compliance strategies, and where necessary bringing enforcement actions.

Section 1413 defines the substantive conditions under which the Administrator may determine that a State has primary enforcement responsibility for assuring compliance by public water systems within that State with national primary drinking water regulations. These conditions include (1) the adoption of State regulations which the State can demonstrate are at least equally as stringent as national primary regulations; (2) the adoption and implementation of adequate surveillance and enforcement procedures; and (3) if the State permits variances and exemptions, the adoption and implementation of measures to assure that such variances and exemptions are permitted under conditions and in a manner which is at least equally stringent as the requirement of sections 1415 and 1416.

Section 1413 also provides that the procedures by which the Administrator will make the determinations as to whether a State has primary enforcement responsibility for public water systems are to be prescribed by rule of the Administrator in accordance with 5 U.S.C. § 553. Proposal of such regulations is required within 180 days after enactment of this bill and promulgation is required within 90 days thereafter.

This section also requires the Administrator to take final action within 90 days after date of submission of an application for a determination of State primary enforcement responsibility. If the Administrator's decision is negative, he must notify the State in writing of the reasons for such decision.

The significance of this determination cannot be overestimated. Authority for States to grant variances and exemptions under sections 1415 and 1416, to receive notice prior to the commencement of Federal enforcement actions under section 1414, and to receive grants under section 1434 (except as may be provided during the first year) is dependent upon this determination. Therefore, the Committee intends EPA to exercise utmost care in passing upon such applications and to deny any such application only upon a clear failure by the State to meet the requirements of this section.

Section 1413 also specifies certain conditions which must be met before an EPA determination to revoke a State's primary enforcement responsibility may be effective. First, the Administrator must submit to the State in writing a statement of the specific requirements which he finds the State is no longer meeting and the basis for this finding. Second, the Administrator must provide an opportunity for public hearing. The Administrator's final determination to revoke or leave in effect the State's primary enforcement responsibility is not required to be made on the record of this hearing, however.

For the purpose of this section, the phrase "adequate procedures for the enforcement of such State regulations" includes sufficiently expeditious administrative and judicial authorities and procedures to assure that, if properly exercised, these procedures and authorities will obviate the necessity for Federal enforcement under section 1414. This means that a State must be able to take effective action within 60 days after receipt of a notice of noncompliance from EPA to bring a system into compliance at the earliest feasible time.

SECTION 1414. FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

Conditions for Federal enforcement

This section sets forth the conditions under which Federal enforcement of primary drinking water regulations may occur. If the Administrator finds a violation is occurring in a State which has primary enforcement responsibility, he must give notice of the alleged violation to the State.

If the Administrator finds that the noncompliance extends beyond the thirtieth day, he is required to notify the public of this finding. He is also required to request the State to report within 15 days as to the steps it is taking to bring the system into compliance.

The Committee intends that such reply be as specific as possible. It should specify a timetable by which compliance will be achieved and include interim steps that will be taken. It should also include a statement of the legal authority which the State intends to rely upon and any remaining legal steps that will be taken by the State to assure that the timetable is followed. Mere declarations of intent to commence legal proceedings or other similar vague declarations of intent would not be sufficient to constitute the required reply under this section. It is further expected that the State would amend its reply if, after the initial submission of such reply to EPA, such State had reason to believe the compliance timetable, including interim steps would not be met. The Committee expects that the Administrator will promulgate requirements for regular followup reports from the State on progress being made toward bringing about compliance pursuant to the Administrator's authority under section 1413 to issue regulations concerning State programs.

If a system remains in noncompliance sixty days after the initial notice by EPA and if the State has failed to submit the report requested within the 15 day period or the Administrator determines that by failing to implement adequate procedures by the sixtieth day to bring the system into compliance by the earliest feasible date the State has abused its discretion in carrying out its primary enforcement responsibility, then the Administrator may commence an enforcement action under subsection (b).

In using the phrase "abused its discretion in carrying out its primary enforcement responsibility", the Committee intends that any failure by a State to implement by the sixtieth day adequate procedures to bring a system into compliance by the earliest feasible time be considered a *per se* abuse of discretion by the State. Such a failure is both a necessary and sufficient condition for enforcement action by

the Administrator. Such a failure would constitute an abuse of discretion whether it results from negligence, inattention, lack of adequate technical and enforcement personnel, or from any other cause. Thus, in the Committee's view no defense to an enforcement action by EPA would lie on the ground that, though the State had failed to implement such adequate procedures by the sixtieth day, the State did not abuse its discretion.

In reviewing the date determined by the State to be the earliest feasible time for any system to come into compliance, the Administrator should consider, among other matters, all technological alternatives and financial resources which may be available to the public water system or to the entity which operates it. If a State has not initiated procedures which would bring the system into compliance at the earliest feasible time, this would constitute an abuse of discretion within the meaning of section 1414, such that Federal enforcement efforts would be authorized. In addition, a State would be deemed to have abused its discretion if at any time prior to compliance being achieved, such State fails to carry out properly any follow-up or enforcement procedures necessary to achieve compliance within the time contemplated by those procedures.

The Administrator is also authorized to commence enforcement action upon request of the Governor (or other chief executive officer) of a State or upon request of the agency of the State responsible for assuring compliance with drinking water regulations.

Continuous violations of primary drinking water regulations would of course, be basis for Federal enforcement actions under the conditions stated above. The Committee also intends that sporadic but repeated violations of the regulations be subject to Federal enforcement under the conditions described above. It should be noted in this regard that a violation occurs whenever a maximum contaminant level is exceeded or a treatment technique is not followed however briefly. While the Committee does not intend to require enforcement actions to be commenced with respect to each isolated violation, it is intended that the public receive notice of each violation which is found to occur.

In the event the Administrator finds that a violation is occurring in a State which does not have primary enforcement responsibility, he is not required to give the State notice prior to commencing a suit to compel compliance with the national primary regulations.

Judicial enforcement

Section 1414 also provides that courts entertaining suits under this section may enter such judgment as the public health may require, taking into account the time necessary to comply and the availability of alternative water supplies. Therefore, the Committee intends that courts which are considering remedies in enforcement actions under this section are not to apply traditional balancing principles used by equity courts. Rather, they are directed to give utmost weight to the Committee's paramount objective of providing maximum feasible protection of the public health at the times specified in the bill.

Although requiring prompt compliance by some small outdated systems may in effect force the closing thereof, such a court order would be both permissible and warranted if an expansion of existing

regional water service or other State or local assistance could be provided to assure the availability of adequate and safe drinking water supplies to those presently serviced.

Notice to users

Section 1414(c) requires public water systems to give notice to the users of the system and to the public under five separate circumstances: (1) when the system fails to comply with a maximum contaminant level requirement of a national primary drinking water regulation; (2) when the system fails to use any of the required treatment techniques of a national primary drinking water regulation; (3) when the system fails to perform testing or monitoring as required by such a regulation or by section 1445; (4) when a system has received a variance under section 1415(a)(1)(A) or 1415(a)(2) (for an inability to meet a maximum contaminant level requirement) or has received an exemption under section 1416; or (5) when a system has failed to comply with any schedule or control measure prescribed pursuant to a variance or exemption.

The purpose of this notice requirement is to educate the public as to the extent to which public water systems serving them are performing inadequately in light of the objectives and requirements of this bill. Such public education is deemed essential by the Committee in order to develop public awareness of the problems facing public water systems, to encourage a willingness to support greater expenditure at all levels of government to assist in solving these problems, and to advise the public of potential or actual health hazards.

In keeping with this purpose, the Committee has specified certain methods and frequencies for giving notice to the public and has conferred authority for the Administrator to prescribe the form and manner of this notice. The regulations of the Administrator must, of course, be reasonable and related to the purpose expressed above. Notice should inform the public, not unduly alarm it. Thus, the Committee expects that the Administrator's regulations would permit public water systems to give fair explanation of the significance or seriousness for the public health of any violation, failure, exemption or variance. These regulations should also permit fair explanation of steps taken by the system to correct any problem.

On the other hand, the Administrator's regulations should assure that unduly technical language, small print, or other methods which would hinder public awareness are not used. Moreover, it may be necessary to require bi-lingual notice in certain communities to assure adequate notice is given to all segments of the public. The Administrator's regulations should also require that the three-month notice include all violations not previously reported, even though they have been corrected at the time of notification.

The Committee recognizes that in some instances apparent violations may result from monitoring error. Only if the public water system could provide persuasive proof that readings in excess of regulations were due to such error would the system be excused from the notice requirement under section 1414. In such a case, the Committee anticipates that the system will notify appropriate public authorities of such monitoring or sampling errors.

The Administrator's regulations would be expected to differentiate between the type of notice which might be ordered in case of imminent and substantial endangerment under section 1431 and that which is required in less serious cases under this section.

Section 1414(c) also contains provision making punishable by a fine of up to \$5,000 a willful failure to give the required notice.

Secondary drinking water regulations

National secondary drinking water regulations are not federally enforceable. If the Administrator finds that these regulations are not being complied with and that the State is failing to take reasonable action to assure compliance, he must notify the State.

Retention of State and local authority

Section 1414 retains in the States and political subdivisions the right to adopt and enforce any drinking water regulations or laws it chooses. However, no person may be relieved of the duty to comply with requirements under this bill by any State or local regulations or laws (except insofar as variances, exemptions, or temporary permits may be issued by States pursuant to authorities expressly conferred by this bill).

Public hearings to encourage compliance

Finally, section 1414(f) authorizes the Administrator, upon receipt of a petition by a State with primary enforcement responsibility or by a public water system or by any person served by a system which the Administrator finds is not in compliance with any national primary drinking water regulation or with any other requirement under section 1415 or 1416, to conduct public hearings with respect to such non-compliance. The purpose of these hearings is to gather information on the ways in which the system can be brought into compliance at the earliest feasible time. The purpose is also to explore means for the maximum feasible protection of the public health during any period of noncompliance. These hearings shall be the basis for recommendations by the Administrator. These recommendations are to be submitted to the State, the public water system, and to the communications media and are to be made available to the public.

Nothing in subsection (f) is intended by the Committee to limit the Administrator's authority to act *sua sponte* to hold hearings or to make recommendations to effectuate the purposes of this bill. Nor is the authority in subsection (f) intended in any way to be construed as a condition precedent to Federal enforcement.

SECTION 1415. VARIANCES

State variance authority

Section 1415 authorizes variances from primary drinking water regulations to be granted on two separate bases.

First, a State which has primary enforcement responsibility for public water systems may grant one or more variances to any system which cannot meet maximum contaminant level requirements despite application of the most effective treatment methods. This variance is intended to deal with the situation in which the system cannot comply

with primary regulation intake requirements (and thus cannot comply with maximum contaminant level output limits) despite all reasonable technological, economic, and legal efforts to do so. The Committee anticipates that in exercising this authority States will periodically review variances to assure that they are still necessary and that all reasonable efforts to obtain access to a satisfactory raw water source are being made by the system.

Second, States with primary enforcement responsibility may grant a variance from a primary drinking water regulation which requires the use of treatment technique(s) if a satisfactory showing is made by a public water system that such treatment is unnecessary to protect the public health. This variance is designed to apply to situations in which the system's raw water source is substantially cleaner than the minimum intake water requirements.

The Committee anticipates that any such variance would, under the Administrator's regulations, be conditioned upon monitoring and periodic review to assure that its continuation is warranted. Furthermore, section 1415 requires notice and opportunity for a public hearing before any such variance may take effect. Separate notice and hearing is not required of each variance, however.

EPA review of State action

The Committee contemplates that EPA will carefully review the variances which are granted by States to assure that the State has not abused its discretion in granting variances and has not failed to impose reasonable control measures.

If the Administrator finds that, in a substantial number of cases, the State has granted variances which were clearly unwarranted or has failed to impose reasonable control measures during the period of the variances, he must notify the State of this finding. The notice must include, among other things, proposed revocations of specific variances or revised control measure requirements or both.

Reasonable notice and public hearing on the notice must be provided by the Administrator before any final action may be taken. After such hearing the Administrator must either rescind his finding or must take action to promulgate the variance revocations and revised control measure requirements which he proposed. In order to afford States an adequate opportunity to take corrective action in response to the Administrator's notice, section 1415 precludes any action by the Administrator from taking effect for 90 days after the Administrator has sent notice of the proposed revocations and revised control measures. Moreover, if such timely corrective State action is forthcoming, the Administrator is required to rescind the application of his finding to the variance or control measure or other requirement which has been corrected.

This system of EPA oversight is intended by the Committee to confer maximum responsibility on States which make appropriate efforts to effectuate the purposes of the Act. While some EPA review of State granted variances from national regulations was deemed necessary by the Committee to assure the effectuation of the national policy, it is not intended that EPA engage in a case-by-case review or substitute its judgment for the well-exercised judgment of a State. EPA notice to

a State is warranted only when a significant number of cases can be shown of State action inconsistent with the intent of this bill.

In determining what constitutes a significant number of cases, the number of consumers affected by such variances should be considered.

EPA variance authority

Section 1415 also provides that public water systems in States which do not have primary enforcement responsibility may obtain variances from EPA in the same manner and under the same conditions as they could from the State, if it had primary enforcement responsibility.

In addition to the two types of variances which States may grant, section 1415 authorizes the Administrator to grant a different type of variance.

Under this final variance authority, the Administrator may grant a variance, upon application of a public water system or other interested person, if the applicant makes a showing to the Administrator's satisfaction that another treatment technique is of at least equal effectiveness to any treatment technique required by the Administrator under a primary drinking water regulation. A variance under this provision must be conditioned on the use of the alternative technique which is the basis of the variance.

Section 1415 also provides that the conditional requirements of variances, whether granted by EPA or by the States, are enforceable by EPA as if they were part of a national primary drinking water regulation.

SECTION 1416. EXEMPTIONS

Section 1416 authorizes any State which has primary enforcement responsibility to exempt a public water system from any maximum contaminant level requirement or from any treatment technique requirement upon a finding that the system is unable to comply due to compelling factors. These factors may include economic factors, such as the high cost of purchasing and constructing necessary equipment or facilities and the low per capita income and small number of residents in a community served by the system.

The authority to grant such exemptions is limited to public systems in operation on the effective date of the primary regulation. New systems which are placed into operation after that date are expected to comply with the requirements without any exemption. Moreover, in considering whether economic factors are sufficiently compelling to warrant an exemption under this section, it is anticipated that the States will weigh any planned expansion of existing facilities of the system. In the Committee's view, if a system has sufficient funds to permit substantial expansion of capacity and service, these funds should first be used to assure the safe quality of the drinking water presently being supplied. In such cases, States should be extremely reluctant to grant exemptions on economic grounds.

If a State does grant an exemption to any public water system under section 1416, it must within one year thereafter prescribe a schedule for bringing the system into compliance (including increments of progress) and for interim control measures during the pendency of the exemption. These schedules may be prescribed by the State only after notice and opportunity for a public hearing on the proposed schedule.

The compliance schedule must provide for compliance by the system with the requirements of the primary regulations as expeditiously as practicable. In any event, however, the compliance date must be no later than January 1, 1981, in the case of an exemption from an interim regulation, and no later than seven years after the effective date of a revised regulation in the case of an exemption from such regulations (except that in either case two additional years may be granted if the system is entering into a regional water system).

This section also provides for a system of EPA review of State-granted exemptions. EPA is required to complete such a review within 18 months after the effective date of the interim regulations. The procedures and criteria for EPA review of State granted exemptions are parallel to those with respect to variances.

Section 1416 also provides that public water systems in States which do not have primary enforcement responsibility may obtain exemptions from EPA in the same manner and under the same conditions as they could from the State, if it had primary enforcement responsibility.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

SECTION 1421. REGULATIONS FOR STATE PROGRAMS

Guidelines for State programs

Section 1421 is intended to establish a Federal-State system of regulation to assure that drinking water sources, actual and potential, are not rendered unfit for such use by underground injection of contaminants. The guidelines for the States' regulatory programs are to be promulgated by the Administrator within 360 days after enactment. Such promulgation is to be preceded by proposal and opportunity for public hearing as well as opportunity to comment in accordance with 5 U.S.C. 533. Such promulgation is also to be preceded by consultation with the Secretary and the Council and other appropriate Federal and State entities.

The Administrator's guidelines for State underground injection control programs must, as a minimum, require States to (1) prohibit unauthorized underground injection effective three years after enactment of this bill; (2) require applicants for underground injection permits to bear the burden of proving to the State that its injection will not endanger drinking water sources; (3) refrain from adopting regulations which either on their face or as applied would authorize underground injection which endangers drinking water sources; (4) adopt inspection, monitoring, recordkeeping, and reporting requirements for the purpose of this Part; and (5) apply their injection control programs to underground injections by Federal agencies and by any other person whether or not occurring on Federally-owned or leased property.

Furthermore, the Committee seeks to have several major policies implemented. First, potential as well as presently-used drinking water sources are to be protected. Second, the protection is to apply to any injected substance (or derivative thereof) whether or not that substance is a contaminant subject to national primary drinking water regulations. Thus the injection is to be subject to regulation or pro-

hibition if the injected substance may cause or contribute to non-compliance with a national primary drinking water regulation or if it may otherwise adversely affect the public health, including causing or contributing to the water's unfitness for human consumption.

Numerous public and private agencies which have considered the matter have become concerned about the substantial hazards and dangers associated with deep well injection of contaminants. Dow Chemical Corporation, which had pioneered deep well injection as a method of industrial waste disposal, has decided to stop drilling new wells and to phase out existing wells, because of these hazards. New York State has declared that it will regard deep well injection as a "last resort" after evaluation of all other methods. Nine other States currently reject or discourage applications for injection systems. The U.S. Geological Survey and the Bureau of Mines have expressed increasing worry about the indiscriminate "sweeping of our wastes underground." Some commentators have even termed injection well actions as "ultrahazardous activity".

Nonetheless, underground injection of contaminants is clearly an increasing problem. Municipalities are increasingly engaging in underground injection of sewage, sludge, and other wastes. Industries are injecting chemicals, byproducts, and wastes. Energy production companies are using injection techniques to increase production and to dispose of unwanted brines brought to the surface during production. Even government agencies, including the military, are getting rid of difficult to manage waste problems by underground disposal methods. Part C is intended to deal with all of the foregoing situations insofar as they may endanger underground drinking water sources.

In requiring EPA to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources, the Committee intends to ratify EPA's policy on deep well injection. (See 39 Fed. Reg. 12922-3, April 9, 1974) This policy was first adopted by the Federal Water Quality Administration of the Department of the Interior on October 15, 1970. The policy opposes storage or disposal of contaminants by subsurface injection "without strict control and clear demonstration that such wastes will not interfere with present or potential use of subsurface water supplies, contaminate interconnected surface waters or otherwise damage the environment." The Committee thus intends EPA to use these policy guidelines—including the exploration of alternative measures and the determination that they are less satisfactory than underground injection; preinjection tests; a geologic-hydrologic-geochemical survey and submission of such other information as is necessary to evaluate the acceptability of any proposed underground injection; the use of best available measures for pre-treatment; the use of best available techniques for design, siting, construction, operation, maintenance, and abandonment of the injection system; provisions for adequate and continuous monitoring of operations and effects—as the basis for establishing minimum requirements for effective State programs.

In addition, the Committee intends that the Administrator should incorporate in such guidelines requirements for preparation of adequate contingency plans to cope with malfunction or failure of the system including alarm and fail-safe measures; provisions for the

posting of bond or such other measures as may be necessary to assure the availability of adequate financial resources for dealing with underground injection systems which either must be abandoned or cause damage to, or contamination of, public or private drinking water sources; limitations on the aggregate volume of contaminants which may be injected and on the pressure at which such injection may occur; and, if necessary to effectuate the purpose of Part C, prohibition of underground injection in designated areas which are unsuitable for this purpose because of the presence of presently-used or potential drinking water sources.

Procedures for controlling underground injections

In order to implement these controls to protect drinking sources with minimum administrative redtape, the Committee decided to allow EPA discretion to require States to utilize a permit system, rule-making, or a combination of the two to control underground injection.

In adopting this approach, the Committee was intent on allowing the Environmental Protection Agency sufficient leeway to adopt a program which would be administratively compatible with, and non-duplicative of, the permit provisions of the Federal Water Pollution Control Act.

Temporary permit authority

The Committee recognized that some States may be unable to process all permit applications for new and existing underground injection wells within the three year deadline established by the bill. Consequently, upon application by the Governor, the Administrator may at his discretion allow the States to issue temporary permits for an additional year. The Administrator may only allow the issuance of such temporary permits, however, under the following conditions: (1) the State must bear the burden of proving that it could not process all permit applications in time; (2) the temporary permits may only be issued for unprocessed permit applications for injection wells in operation at the time of EPA's approval of the State program; (3) the temporary permits must require use of generally available techniques to minimize the likelihood of contaminating drinking water sources; and (4) the Administrator must determine that the issuance of temporary permits is warranted notwithstanding the adverse environmental (including public health) effects.

In addition to authorizing EPA to allow State issuance of one year temporary permits, section 1421(c)(2) authorizes EPA to allow States to issue one-year temporary permits a particular injection well and for the underground injection of a particular fluid if there is no method for safe injection of the fluid and if injection would be less harmful to the public health than other alternative means of treating or dealing with it.

These temporary permits under section 1421(c)(2), which are in effect variances, are to be allowed only in very limited circumstances. First, they may not be made effective beyond four years after date of enactment of this bill. This is true whether or not a temporary permit has been issued under such section 1421. If the injection cannot be made so as not to endanger drinking water sources within four years after enactment, the operation of the well must be termi-

nated. Second, all efforts must be made to reduce the harmfulness of the injected fluid and to maximize protection of the public health during the pendency of the temporary permit. Third, such a temporary permit may only be authorized if the State has held a formal adjudication, has made the requisite determinations on the record of the hearing, and has submitted an application signed by the Governor for authority to issue such a temporary permit.

"Underground injection"

Finally, section 1421 contains two important definitions. The definition of "underground injection" is intended to be broad enough to cover any contaminant which may be put below ground level and which flows or moves, whether the contaminant is in semi-solid, liquid, sludge, or any other form or state.

This definition is not limited to the injection of wastes or to injection for disposal purposes; it is intended also to cover, among other contaminants, the injection of brines and the injection of contaminants for extraction or other purposes. While the Committee does not intend this definition to apply to septic tanks or other individual residential waste disposal systems, it does intend that the definition apply to a multiple dwelling, community, or regional system of injection of waste.

The application of Part C to the activities of oil and natural gas producing industries was a subject of substantial discussion before the Committee. The Committee rejected an amendment comparable to the exclusionary language of section 502(6) of the Federal Water Pollution Control Act. Instead, the Committee adopted an amendment expressing its intent not to authorize needless interference with oil or gas production. This amendment prohibits regulations for State underground injection control programs from prescribing requirements which would interfere with production of oil or natural gas or disposal of biproducts associated with such production, except that such requirements are authorized to be prescribed if essential to assure that underground sources of drinking water will not be endangered by such activity.

The Committee's intent in adopting this amendment was not to require EPA to bear an impossible burden of proof as a condition of promulgation of any such regulation. Rather, the Committee sought to assure that constraints on energy production activities would be kept as limited in scope as possible while still assuring the safety of present and potential sources of drinking water. Similar provisions were adopted with respect to EPA regulations which are to be promulgated when a State fails to adopt an approvable underground injection control program.

In deciding what is an "essential" requirement, the Committee intends that the types of measures referred to in the Administrator's Decision Statement Number 5 and those referred to in this report be considered to be "essential" unless the contrary could be demonstrated with respect to a specific well or injection. Moreover, in using the words "interfere with or impede" the Committee did not intend to include every regulatory requirement which would necessitate the expenditure of time, money, or effort. Rather, the Committee intended to refer to those requirements which could stop or substantially delay production of oil or natural gas.

Endangerment of drinking water sources

The section also defines "underground injection which endangers drinking water sources." It is the Committee's intent that the definition be liberally construed so as to effectuate the preventive and public health protective purposes of the bill. The Committee seeks to protect not only currently-used sources of drinking water, but also potential drinking water sources for the future. This may include water sources which presently exceed minimum intake water quality requirements or maximum contaminant levels or which are not presently accessible for use as a community drinking water supply source.

Thus, for example, the Committee expects the Administrator's regulations at least to require States to provide protection for subsurface waters having less than 10,000 p.p.m. dissolved solids, as is currently done in Illinois and Texas, even though water containing as much as 9,000 p.p.m. would probably require treatment prior to human consumption.

Further contamination of such sources should not be permitted if there is any reasonable likelihood that these sources will be needed in the future to meet the public demand for drinking water and if these sources may be used for such purpose in the future.

The Committee was concerned that its definition of "endangering drinking water sources" also be construed liberally. Injection which causes or increases contamination of such sources may fall within this definition even if the amount of contaminant which may enter the water source would not by itself cause the maximum allowable levels to be exceeded. The definition would be met if injected material were not completely contained within the well, if it may enter either a present or potential drinking water source, and if it (or some form into which it might be converted) may pose a threat to human health or render the water source unfit for human consumption. In this connection, it is important to note that actual contamination of drinking water is not a prerequisite either for the establishment of regulations or permit requirements or for the enforcement thereof.

Coordination with USGS

The Committee intends that the Environmental Protection Agency will, in the exercise of its responsibilities under this bill, coordinate and consult with the United States Geological Survey so that EPA will not duplicate efforts of the U. S. G. S. to prevent groundwater contamination under the Mineral Leasing Act. The Committee does not intend any of the provisions of this bill to repeal or limit any authority the U. S. G. S. may have under any other legislation.

SECTION 1422. STATE PRIMARY ENFORCEMENT RESPONSIBILITY

This section requires the Administrator to list all States which ought to have underground injection control programs. It is anticipated that this list, which must be published within 180 days of enactment, would include all 50 States, but perhaps not the District of Columbia and various territories and possessions.

Each State which is listed must adopt an underground injection control program which meets the requirements of the Administrator's regulations for such program. The State's program must be adopted

after reasonable notice and public hearing and must be submitted to EPA within 270 days after promulgation of the Administrator's regulations. In addition, the State must submit evidence that it will implement its program and will keep records and reports required by EPA.

Upon receipt of a State's submission, EPA is directed to give public notice thereof, provide opportunity for public hearing, and solicit public comment in accordance with 5 U.S.C. 553. Within 90 days after receipt of the State's submission, the Administrator shall approve or disapprove (in part or whole) the State's underground injection control program.

If the Administrator approves the State's program, the State will have primary enforcement responsibility for underground water sources. If he disapproves, or a State fails to submit a timely application for such primary enforcement responsibility, the Administrator must promptly propose, provide opportunity for public hearing, and solicit comment in accordance with 5 U.S.C. 553 on a program for underground injection control for that State. Within 90 days after his disapproval or the date on which the State is required to make its submission, the Administrator must promulgate such a program for the State.

Once a State is determined to have primary enforcement responsibility for underground water sources, it continues to do so until the Administrator makes a contrary determination in accordance with 5 U.S.C. 553 and after opportunity for public hearing.

When the Administrator amends any regulation under section 1421 so as to revise or add a requirement respecting State underground injection control programs, each State is to submit to the Administrator a notice containing a satisfactory showing that the State's program meets the requirements of the Administrator's regulations in effect under section 1421, as amended. The timeframe and procedure for EPA's review and approval (or disapproval/promulgation) of a State's notice is the same as for the Agency's review of a State's initial application for primary enforcement responsibility for underground water sources.

SECTION 1423. FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

Basically, this section parallels the provisions of 1414. It requires notice by the Administrator to any State with primary enforcement responsibility for underground water sources before EPA may commence enforcement actions against any alleged violator of a requirement of an applicable underground injection control program. No such notice is required if the State does not have primary enforcement responsibility for underground water sources.

As is the case in section 1414, the notice by EPA must be followed by a 15-day opportunity for the State to submit a report as to the steps being taken by the State to secure compliance by the alleged violator. If this report is not submitted in timely fashion by the State, the Administrator would be authorized to commence an enforcement action. Even if such a report were submitted in timely fashion if the State failed to abate the violation within 60 days after the original

notice, this would *per se* constitute an abuse of discretion by the State and Federal enforcement would be authorized. Thus, one respect in which this section differs from section 1414 is that here compliance by the violation must occur within 60 days in order to preempt Federal enforcement, whereas in section 1414 all that is required is that the State implement adequate procedures within 60 days to bring the system into compliance by the earliest feasible time.

Suits for injunctive relief are authorized to be brought by the Administrator in Federal district courts to compel compliance with the applicable control program. Violations are also punishable by civil penalties of up to \$5,000 per day. Willful violations are subject to an additional criminal fine of up to \$5,000 per day.

Finally, the section preserves the rights of State (and local) governments to adopt and enforce any requirement concerning underground injection. The section makes clear, however, that compliance with any such requirement will not relieve any person of any duty to comply with requirements imposed pursuant to this legislation.

SECTION 1424. INTERIM REGULATION OF UNDERGROUND INJECTIONS

Section 1424 is designed to deal with a limited problem which may arise in the three year period before State underground injection control programs become effective under section 1421. This problem may arise if an area has one aquifer which is the sole or principal drinking water source and which would pose a significant hazard to public health (short of imminent and substantial endangerment), if it were contaminated.

In such a case the Administrator is authorized upon petition of any person to designate this area as one in which no new underground injection well (as that term is defined in subsection (d)) may be operated, unless he has issued a permit for such operation. The Administrator's authority to make such a designation terminates on the date on which the applicable underground injection control program for that area becomes effective.

Public notice and opportunity to comment must be provided prior to the making of any designation under this section, unless the Administrator waives such procedures for just cause under 5 U.S.C. 553. Final action by the Administrator on a petition under this section is required within 30 days after notice is published.

Once the designation is made, no new injection wells (as defined) may be operated in that area without a permit from the Administrator. Petitions for permits are to be considered after notice and opportunity for hearing on the record. Final disposition of such a petition must be made within 120 days of publication of notice receipt of the petition.

In this proceeding the burden of proof would, of course, be on the petitioner. The Administrator may issue a permit under this section only if he finds that operation of the proposed injection well will not cause contamination of the aquifer so as to create a significant hazard to public health.

Section 1424(c) provides for injunctive relief, civil and criminal penalties which may be imposed on any violator of the provisions of this section.

PART D—GENERAL PROVISIONS

SECTION 1431. EMERGENCY POWERS

Section 1431 reflects the Committee's determination to confer completely adequate authority to deal promptly and effectively with emergency situations which jeopardize the health of persons.

The authority conferred by this section is intended to override any limitations upon the Administrator's authority found elsewhere in the bill. Thus, the section authorizes the Administrator to issue such orders as may be necessary (including reporting, monitoring, entry and inspection orders) to protect the health of persons, as well as to commence civil actions for injunctive relief for the same purpose.

The authority to take emergency action is intended to be applicable not only to potential hazards presented by contaminants which are subject to primary drinking water regulations, but also to those presented by unregulated contaminants.

The authority conferred hereby is intended to be broad enough to permit the Administrator to issue orders to owners or operators of public water systems, to State or local governmental units, to State or local officials, owners or operators of underground injection wells, to area or point source polluters, and to any other person whose action or inaction requires prompt regulation to protect the public health. Such orders may be issued and enforced notwithstanding the existence of any exemption, variance, permit, license, regulation, order or other requirement. Such orders may be issued to obtain relevant information about impending or actual emergencies, to require the issuance of notice so as to alert the public to a hazard, to prevent a hazardous condition from materializing, to treat or reduce hazardous situations once they have arisen, or to provide alternative safe water supply sources in the event any drinking water source which is relied upon becomes hazardous or unuseable.

Willful violation of the Administrator's order is made punishable by a fine of up to \$5,000 per day of violation.

In using the words "that appropriate State or local authorities have not acted to protect the health of persons," the Committee intends to direct the Administrator to refrain from precipitous preemption of effective State or local emergency abatement efforts. However, if State or local efforts are not forthcoming in timely fashion or are not effective to prevent or treat the hazardous condition, this provision should not bar prompt enforcement by the Administrator.

In using the words "imminent and substantial endangerment to the health of persons," the Committee intends that this broad administrative authority not be used when the system of regulatory authorities provided elsewhere in the bill could be used adequately to protect the public health. Nor is the emergency authority to be used in cases where the risk of harm is remote in time, completely speculative in nature, or *de minimis* in degree. However, as in the case of *U.S. v. United States Steel*, Civ. Act. No. 71-1041 (N.D. Ala. 1971), under the Clean Air Act, the Committee intends that this language be construed by the courts and the Administrator so as to give paramount importance to the objective of protection of the public health. Administrative and judicial implementation of this authority must occur early enough to prevent

the potential hazard from materializing. This means that "imminence" must be considered in light of the time it may take to prepare administrative orders or moving papers, to commence and complete litigation, and to permit issuance, notification, implementation, and enforcement of administrative or court orders to protect the public health.

Furthermore, while the risk of harm must be "imminent" for the Administrator to act, the harm itself need not be. Thus, for example, the Administrator may invoke this section when there is an imminent likelihood of the introduction into drinking water of contaminants that may cause health damage after a period of latency.

Among those situations in which the endangerment may be regarded as "substantial" are the following: (1) a substantial likelihood that contaminants capable of causing adverse health effects will be ingested by consumers if preventive action is not taken; (2) a substantial statistical probability that disease will result from the presence of contaminants in drinking water; or (3) the threat of substantial or serious harm (such as exposure to carcinogenic agents or other hazardous contaminants).

SECTION 1441. ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

Temporary certification authority

Section 1441 authorizes the Administrator to issue certificates of need for chlorine or other chemicals or substances necessary for treatment of water in public water systems or in public wastewater treatment works. A certificate of need may be issued upon a petition of any person who uses such chemical or substance in a public water system or public treatment works, but who is (or will be) unable to obtain the amount needed for effective treatment. This provision is intended to permit a petition to be filed in advance of the date on which the system or treatment works will completely run out of the required chemical or substance.

The procedures governing submission and consideration of a petition for certification of need are set forth in subsection (b). No later than 30 days after the notice of receipt of a petition has been published, unless such notice is waived to protect the public health, the Administrator must act to grant or deny the certificate. This period is a maximum, and the Committee would anticipate even more prompt action by EPA in the case of a severe shortage or complete lack of necessary substances. The Committee, of course, encourages producers to take the initiative upon the publication of notice to voluntarily supply the petitioners, thereby making a government action unnecessary.

If, however, the requirements of the petitioner are not met on a voluntary basis and if the Administrator issues a certificate of need, he is to specify the chemical or substances needed, the amount which is needed, and the time period for which it is needed. No certificate may remain in effect for more than one year, although subsequent additional certifications may be issued to the same person. The purpose of this provision is to assure that at least annually the Administrator will take a fresh look at market conditions and the efforts of the petitioner to see whether the chemical or substance would continue to be unavailable to that person, absent mandatory allocation orders.

Required allocation order

Not later than seven days after the issuance of a certificate of need, the President (or the agency or department to whom he delegates the responsibility) must issue a mandatory allocation order which will assure that the needed amount of the chemical or substance will be provided at the required time to the person for whom the certificate of need was issued. (Here again prompt action by the President or his delegate is expected by the Committee in case of serious shortage or depletion of supply.) The President (or his delegate), thus, has discretion in deciding who will be ordered to supply the certified amount, but not in whether to issue an order to do so.

When the President exercises his discretion as to whom allocation orders will be directed, the Committee intends that the aggregate of the orders under this section are to apply equitably within the class of manufacturers, producers, and processors and within the class of repackagers and distributors. The purpose of this provision is to prevent any one segment of the suppliers industry from being subject to unreasonable or disproportionate burdens under this section.

In carrying out the requirement for equitable apportionment of allocation orders, the President (or his delegate) is directed to consider a number of factors. Among these are geographical and established commercial relationships; in the case of chlorine, the amount of chlorine historically supplied by each producer for the purposes specified in this section and each producer's share of the total annual production of chlorine in the United States; and such other factors as are relevant to assuring equitable apportionment.

Orders, like certifications, under this section may remain in effect for only 1 year. However, additional orders may be issued to the same person to supply a person he has previously been ordered to supply if additional certifications of need have been issued.

Orders are not to be issued to a producer, manufacturer, or processor who produces these chemicals or substances solely for its own use. If the Administrator determines that a producer, processor, or manufacturer switches to completely "in-house" use of chemicals or substances with intent to avoid being subject to orders under this section, the Administrator should promptly notify the House Interstate and Foreign Commerce Committee, so that appropriate legislative action can be taken, although the Committee expects that the industry will not attempt to circumvent the intent of this section.

Finally, criminal and civil penalties and injunctive relief by violation of orders under this section are provided. Either the Administrator of EPA or the President (or his delegate) is authorized to commence suits for injunctive relief to enforce allocation orders.

The authority provided under this section expires after June 30, 1977.

SECTION 1442. RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

Section 1442 authorizes the Administrator to conduct research, studies, and demonstrations, relating to the causes, diagnosis, treatment, control, and prevention of disease resulting from contaminants in water or relating to the provision of a dependably safe supply

of drinking water. The purposes explicitly mentioned in section 1442(a)(1) are intended to be illustrative, not limiting in nature.

The Administrator is also directed, to the maximum extent feasible, to provide technical assistance to the States and municipalities in the establishment and administration of "public water system supervision programs" (as defined in section 1443(c)(1)). This direction is in keeping with the Committee's basic intent to assure that State and local government will be primarily responsible for assuring the safety of drinking water.

In addition to these broad authorities contained in section 1421(a)(1), the Administrator is mandated to conduct certain specified studies. First, he is required to study the costs of implementing the national drinking water regulations and to make periodic reports to Congress thereon. These reports should be submitted at least biennially. Second, the Administrator is required to conduct a survey of waste disposal practices (including practices other than underground injection) which may contaminate presently used or potential underground drinking water supplies. This study, which must evaluate means of controlling waste disposal practices to prevent such contamination, is to be completed within one year after date of enactment of the title.

Section 1442 also mandates studies of methods of nonpolluting underground injection; methods of preventing, detecting, and dealing with surface spills of contaminants which may pollute underground drinking water sources; methods of controlling virus contamination of drinking water; the impact of abandoned wells, pesticides and fertilizers, and surface disposal of contaminants on surface and underground drinking water sources. These studies should be completed within two years after the date of enactment of the title.

The Committee intends that the development and implementation of EPA's research program be commenced promptly upon enactment of this bill. It is not intended that research planning and funding be delayed until the NAS completes its study and makes its report under section 1412. Rather, the NAS report should be used to assist and guide the research program which EPA has begun to carry out.

Moreover, it should be clear that the research program authorized in this section must be tailored to produce the information necessary to effectuate the mandates of the bill. Funds to obtain other information which the Administrator believes helpful or interesting should not be committed until all research needs to effectuate this legislation have been fulfilled.

The provisions of section 1442 are among the most essential for the development and implementation of effective State underground injection control programs. Without studies and research on the causes, treatment, control and prevention of contamination of ground water, efforts to protect this important source of drinking water will be severely hindered. In past years, responsibility for research on ground water contamination has been carried out in EPA's Robert S. Kerr Environmental Center. However, the existing staff of researchers at the Kerr Center is limited to 8 persons. In the Committee's view, this

number will have to be increased to at least 40 persons in order to meet the mandates of this bill within the time constraints imposed. In light of this need, the Committee anticipates that the Administrator will use the authorized funds under this section to continue, increase, and expand the direct research, technical assistance, and research grant and contract programs of the Kerr Center pertaining to protection of underground water sources.

For the purposes of this section, there are authorized to be appropriated \$15,000,000 for FY 1975; \$25,000,000 for FY 1976, and \$35,000,000 for FY 1977.

SECTION 1443. GRANTS FOR STATE PROGRAMS

Section 1443 requires the Administrator to make start-up and continuation grants to those States which he determines will assume primary enforcement responsibility for public water systems within a year after award of the grant. To the extent that the applicable appropriation permits, an allotment of \$50,000 per State (with approved grant application) is to be made by the Administrator. Additional amounts from the sums appropriated must be allotted on the basis of population, area, number of public water systems, and other relevant factors.

For each fiscal year during which the State is in compliance with grant regulations established by the Administrator, he is required to pay out of that State's allotment not more than 75 per cent of the costs of carrying out a "public water system supervision program", as that phase is defined in section 1443(c)(1). No continuation grant to a State may be made, unless the State has been determined by the Administrator to have primary enforcement responsibility for public water systems.

To carry out subsection (a), there are authorized to be appropriated \$15,000,000 for FY 1976 and \$25,000,000 for FY 1977.

Subsection (b) establishes a similar grant program for aiding States which will assume primary enforcement responsibility for underground water sources. There are several noteworthy differences, however. First, subsection (b) allows up to two years for the State to start up this part of its program while receiving grant assistance. Second, subsection (b) imposes no flat allotment requirement. Third, in making grants under subsection (b) the Administrator is expected to consider any awards which have been made to the State for similar purposes under the Federal Water Pollution Control Act. This consideration should be geared to avoiding duplication and payments which in the aggregate exceed 75 per cent of costs. To carry out subsection (b), there are authorized to be appropriated \$5,000,000 for FY 1976 and \$7,500,000 for FY 1977.

The Committee recognizes that the grants to State programs envisaged here were not proposed by the Administration in its drinking water bill. However, the Committee believes that without such assistance to the States the shared objective of primary enforcement responsibility in the States would be frustrated.

SECTION 1444. SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

This section authorizes the Administrator to make project grants to develop and demonstrate new or improved methods for providing dependably safe drinking water and to investigate and demonstrate health implications involved in reuse of waste water for drinking and processes and methods for assuring its safety. The Committee has, in particular, directed that the Administrator give priority in the award of special project grants to those areas and projects designed to deal with removal of particles, such as asbestos, or other contaminants, such as virus, which may not be removable from the drinking water supply with normally used treatment methods technology or other means.

An example of the type of situation which the Committee intends to receive priority funding is the removal of sub-microscopic asbestos particles from the drinking water supply of Lake Superior. A Federal Inter-agency Task Force is presently examining this problem. The Committee intends that this provision be used to support and extend the Task Force's effort.

There are authorized to be appropriated for special project grants \$7,500,000 for FY 1975; \$7,500,000 for FY 1976; and \$10,000,000 for FY 1977.

In addition, the section authorizes the Administrator to guarantee loans made by private lenders to small public water systems to enable them to comply with national primary drinking water regulations. What constitutes a "small" system is to be defined by the regulations of the Administrator. However, one indicator that a system should be considered small is if it cannot generate adequate revenue to permit compliance with the regulations through reasonable user charges. Loan guarantees are authorized only if the system would otherwise be unable to obtain necessary financial assistance and if the facilities constructed, equipment purchased, or other purchase made with the borrowed funds would not be rendered obsolete by reasonably anticipatable changes in the primary regulations. The bill contains a \$10,000 limit on the aggregate amount of indebtedness which may be guaranteed under this provision.

SECTION 1445. RECORDS AND INSPECTIONS

This section establishes broad authority in the Administrator to make rules requiring record keeping, reporting, monitoring, and the provision of information to enable him to carry out the purposes of the bill. In this regard, the Committee believes that informing the public of the quality of water being delivered to consumers is a primary purpose of the Act. Consequently, the Committee expects that the Administrator would require all public water systems to notify him frequently of the quality of the water being provided for human consumption and that he would make such information public if the system has not already done so.

Section 1445 further authorizes the Administrator to enter and inspect the property of any person who supplies water, who is or may be subject to a national primary drinking water regulation or to an

applicable underground injection control program, who is or may be subject to a permit requirement under section 1424 or to an order under section 1441, or who is a grantee, to enable the Administrator to effectuate the purposes of the bill. The Administrator is also authorized with respect to any such person to require the establishment and maintenance of records, the making of reports, the conduct of monitoring or sampling, and the provision of information. Such requirements must, of course, be reasonable. Federal agencies are subject to such requirements to the same extent as any other person.

Failure to comply with the record keeping, reporting, monitoring, and information providing requirements established by the Administrator or to permit entry and inspection shall make the person responsible liable to a criminal fine of up to \$5,000.

Subsection (d) provides that in general trade secret or secret process information is not to be disclosed by the Administrator. However, such information may be disclosed under circumstances specified in paragraph (2), notwithstanding the prohibition of 18 U.S.C. 1905. Moreover, the Committee intends that the claimant of the right of confidentiality bear the burden of proving that its disclosure would divulge a trade secret or secret process.

Finally, the section indicates that Federal agencies are subject to the same reporting, record keeping, monitoring, information providing, and entry and inspection requirement as any other person.

SECTION 1446. NATIONAL DRINKING WATER ADVISORY COUNCIL

Section 1446 provides for the appointment of a 15 member National Drinking Water Advisory Council. Council members are to be appointed by the Administrator after consultation with the Secretary of HEW. The Council is to provide advice and recommendations to the Administrator or proper administration and implementation of the act. Finally, the section provides three general categories from which membership of the committee is to be selected. In order to assure balance on the Council, the Committee anticipates that the Administrator would include in his appointments at least one representative of an environmental protection group, one consumer representative, one representative of State agencies regulating water service and prices, and one representative of industry engaging in underground injection.

In addition, the Committee anticipates that some representation by the water supply industry would be provided on the National Council.

SECTION 1447. FEDERAL AGENCIES

Section 1447 requires each Federal agency with jurisdiction over a public water system or underground injection activities to comply with national primary drinking water regulations and with requirements of applicable underground injection control programs. Waiver of the duty to comply with underground injection control programs is authorized, but only if the President determines such waiver is necessary for the National security. No such waiver of the duty to comply with national primary drinking water regulations is author-

ized. In enforcing compliance by Federal agencies, each agency is expected to be initially responsible with States and EPA exercising ultimate responsibility, including the duty to commence enforcement actions under sections 1414 and 1423, in the event the agency in question fails to assure timely compliance or obtain a waiver.

It is the intent of the Committee that the States with primary enforcement responsibility and EPA will treat Federally-owned or operated public water systems or underground injection wells or any other system or underground injection wells on Federal property the same as any other public water system or underground injection well and will enforce applicable regulations to the same extent and under the same procedures. Thus, for sample, if permits are required to be obtained by non-Federal agencies and by private persons, Federal agencies would likewise be subject to the requirement to obtain permits. The only exception to this mandate is a Presidential waiver.

This provision and the provision contained in section 1421(b) are intended to constitute express consent to be sued, which thus waives the traditional sovereign immunity principle and defense.

SECTION 1448. GENERAL PROVISIONS

This section establishes general provisions for implementation of the title. First, the Administrator is granted authority to prescribe such regulations as are appropriate to carry out his functions under the bill.

Second, the section precludes the award of any grant to profit-making groups or associations. Third, the section requires the Administrator to request the Attorney General to represent him in any civil action brought under this title. If the Attorney General fails to notify him within a reasonable time of his willingness to represent him, the Administrator is authorized to be represented by attorneys of the Environmental Protection Agency. Fourth, the section preserves all pre-existing authority of the Administrator.

Fifth, the section provides for EPA to submit an annual report to Congress on its progress in implementing the legislation. The annual report is required to include a statement of the actual and anticipated cost to public water systems (on a State-by-State basis) of compliance with the requirements of the bill.

The Committee expects these annual statements to be as complete as possible. In reexamining this legislation prior to expiration of the authorizations herein, the Committee will carefully review the costs which are being and will be imposed on public water systems to assure that they are justified.

It is also expected that the annual report will include information on the number, duration, and location of variances, exemptions, violations, Federal enforcement actions commenced, petitions for hearing under section 1414(f), hearings conducted in response to such petitions, actions taken to implement section 1431, and other appropriate information respecting the Agency's activities in implementing this bill during the reporting period.

Provisions in previous bills reported by the subcommittee, H.R. 9726 and H.R. 10955, pertaining to the applicability of the National

Environmental Policy Act to actions taken under this bill have been deleted. The determination was made that this is a matter which should properly be considered by the Committee on Merchant Marine and Fisheries, from which the National Environmental Policy Act originated.

Section 3. Rural water survey

This section requires the Administrator of EPA to conduct a survey of the drinking water situation in rural areas of the country, including the public health hazards to which rural populations may be exposed. This survey is to be completed within 18 months after date of enactment and a report is to be submitted within six months thereafter. For the purpose of the survey and report, there are authorized to be appropriated \$1,000,000 for FY 1975, \$2,000,000 for FY 1976, and \$1,000,000 for FY 1977.

Section 4. Bottled drinking water

This section amends Chapter IV of the Federal Food, Drug, and Cosmetic Act by creating a new section 410. This section leaves the responsibility for regulating bottled drinking water with the Secretary of HEW. However, the new section 410 requires the Secretary to consult with the Administrator prior to establishing regulations for bottled drinking water. Moreover, it requires the Secretary, within 180 days after the Administrator promulgates national interim or revised primary drinking water regulations either to amend regulations applicable to bottled drinking water to take account of the administrator's action or to publish his reasons for not doing so in the Federal Register.

AGENCY COMMENTS

The following agency comments were received by the Committee on H.R. 13002:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., April 25, 1974.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to a letter from Senator Magnuson, Chairman of the Senate Commerce Committee, we have provided to his Committee our comments on the Working Draft (dated April 3, 1974) of S. 2846, the Senate "Emergency Chlorine Allocation Act of 1974."

As our comments on the Senate bill are also relevant to section 1432 (relating to chlorine allocation) of H.R. 13002, the "Safe Drinking Water Act" pending before your Committee, we are forwarding our comments on the Senate bill to you for consideration by your Committee.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

Enclosure.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., April 11, 1974.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on the Working Draft (dated April 3, 1974) of S. 2846, the "Emergency Chlorine Allocation Act of 1974."

The bill would authorize the Administrator of EPA to certify to the Secretary of the Department of Commerce that there is a shortage of chlorine or other chemicals necessary for the treatment of drinking water or of chlorine necessary to protect the public health. Upon receiving such certification the Secretary would require the allocation of chlorine or other chemicals to assure an adequate supply to treat drinking water or to protect the public health. Procedures are set out in the bill for the Administrator and the Secretary to carry out their responsibilities. The legislation would expire on June 30, 1976.

The Environmental Protection Agency testified before your Committee on January 29, 1974, on S. 2846. In our statement we gave our views relating to the possibility of a chlorine shortage this year and our recommendations of what Federal legislation is needed. With several exceptions the Working Draft of S. 2846 is consistent with our views and we would support its enactment if revised in accordance with our recommendations set out below.

Our principal problems with the Working Draft relate to the (1) inclusion of chlorine allocation authority for wastewater and other purposes in addition to drinking water, (2) inclusion of "other chemicals" in addition to chlorine that may be subject to allocation, (3) the public notice provisions required by the Administrator and the Secretary before they may make the certification or allocation, and (4) the authority for the issuance of a 180 day allocation order and expiration date of the Act.

In our statement before the Committee on January 29 we pointed out that there is ample justification for providing standby chlorine allocation authority for insuring the safety of drinking water which is not present in other shortage situations. For the reasons given in our testimony, it is still our recommendation that the authority be limited to drinking water and not cover wastewater or other purposes.

We also believe that only chlorine should be subject to standby allocation orders and that the authority should not extend to other chemicals that may be used to treat drinking water. Other chemicals serve important public health roles in the treatment of drinking water although less important than chlorine. However, at the present time they are either not in significantly short supply or substitutes are available. For example, soda ash is in very short supply but lime and caustic soda are usually available as substitutes; alum and fluoride chemicals serve important uses but a serious shortage is not anticipated. While we did support in our January 29 statement the inclusion of other chemicals in the standby allocation authority, upon further review we now believe that this is not necessary.

With regard to the public notice provisions required of the Administrator and the Secretary before a certification may be made or an

allocation order may be issued by each, respectively, we believe that notice and publication in the *Federal Register* should not be required as the Working Draft provides. We believe that the standby authority should only be used where there is a shortage expected which constitutes an emergency and the Administrator and Secretary should then be able to act immediately. Where a time period is allowed and publication required in the *Federal Register*, with provisions for comments, this would tend to make users of chlorine file applications anticipating shortages and providing for the time to have the application processed, published and commented upon. There might not be a shortage if they could file their application later and expect immediate action. Much paper work and the review of a large number of applications could be prevented we believe if the extended public notice provisions were deleted.

We also do not believe that it is necessary to authorize the allocation orders to remain in effect for not to exceed 180 days. The allocation orders will be on a case-by-case basis and while we anticipate that an order could cover more than one single allocation, we do not want chlorine users to make application in order to guarantee up to a six months supply. We also do not believe that the chlorine shortage will extend into 1975 or 1976 and recommend that the Act be made to expire on December 31, 1974.

We also support a number of other revisions to the Working Draft which are being submitted to you in the response from the Department of Commerce. These relate to matters such as submission of reports to the Administrator and Secretary, inspection of records, and for confidentiality of material submitted.

Accordingly, we support the enactment of the Working Draft of S. 2846 if revised in accordance with our above recommendations.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the program of the President.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

In addition, the following agency comments were received by the Committee on H.R. 10955, which was a bill comparable to H.R. 13002.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., November 28, 1973.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to take this opportunity to comment on H.R. 10955, the Safe Drinking Water Act of 1973, which is awaiting action by the Committee on Interstate and Foreign Commerce.

I am aware that the Subcommittee on Public Health and the Environment held numerous sessions and the Subcommittee and its staff devoted many hours to the safe drinking water legislation during the past several months. I am also aware of the extended deliberations that were held by the Subcommittee during the Spring and Summer to develop this legislation and the fact that EPA staff worked closely

with the Subcommittee and its staff while the bill was under consideration. The Subcommittee is to be congratulated for the progress that it has made in developing the safe drinking water legislation which is now ready for review by the full Committee. It is my hope that the Committee will be able to take up the Subcommittee bill, H.R. 10955, in the near future. As you know, the Senate passed its Safe Drinking Water Act in June of this year.

The President proposed in his message on natural resources and the environment and forwarded to the Congress a safe drinking water bill. The bill, H.R. 5368, was introduced by you and Mr. Devine on March 7, 1973. The President reemphasized his commitment to this legislation on September 10, 1973 in his message to the Congress when he urged that the safe drinking water legislation be passed this year.

H.R. 10955, the Subcommittee bill which will be considered by the full Committee is in accord with the objective of the bill submitted by the President and the bills have many similar provisions. For instance, both bills would provide mandatory health-related standards applicable to public water supplies in the Nation; a public notification provision requiring the supplier of water to notify users if the drinking water fails to meet the health-related standards; Federal authority to proceed against imminent hazards; and a comprehensive authorization for research and studies addressed to drinking water supply problems.

The Subcommittee bill does, however, differ in several important respects from the proposal of the President to which I would like to call the Committee's attention. The issues which I would urge the Committee to reconsider are: (1) possibility of Federal domination of local enforcement authority, (2) Federal standards for operation and maintenance, (3) public notification and citizen suit requirements, (4) an expanded Federal assistance program, and (5) the ground water protection provisions.

POSSIBILITY OF FEDERAL DOMINATION OF LOCAL ENFORCEMENT AUTHORITY; FEDERAL STANDARDS FOR OPERATION AND MAINTENANCE; PUBLIC NOTIFICATION AND CITIZEN SUIT REQUIREMENTS

These provisions are so interrelated that they will be discussed together.

I believe that consideration of drinking water legislation should proceed from a proper identification of the differing Federal, State, and local responsibilities. Major responsibility for carrying out the day-to-day operations to assure safe drinking water should remain at the State and local levels.

I believe that the Federal responsibility should be limited to establishing national primary drinking water standards addressed to health-related constituents and including requirements for monitoring and reporting of water quality.

I do not think it is the role of the Federal Government to promulgate other standards for the implementation of State and local drinking water supply programs such as taste, appearance and odor control, operation and maintenance of systems, and selection of sources and sites for facilities—many of which would vary depending upon local conditions and desires. These should largely be left to State

and local regulation. I believe that mandatory Federal standards should be addressed to the essential end product—safe drinking water meeting health standards.

The enforcement approach that we favor is premised on the belief that a Federal requirement that suppliers of drinking water notify consumers of contaminants in their drinking water will institute the necessary enforcement action. An informed public is the best guardian of its own health and safety. Accordingly, I believe the legislation should require that whenever water delivered by a water supply system fails to meet the health standards, the supplier be obligated to notify its users of such failure and the possible resultant health effects. Such a notification provision, coupled with a citizen suit provision would I believe, render enforcement actions by Federal, State or other regulatory agencies largely unnecessary. I believe that suppliers of drinking water, who in almost all cases charge for their products could not withstand the public pressure if their customers have notice that they are receiving water not in compliance with mandatory health standards. The possibility of a citizen suit provides a strong additional incentive to suppliers to maintain compliance with the standards.

Under these circumstances Federal enforcement would be required only to insure that requirements for proper monitoring and reporting of the condition of a public water supply is being carried out, or in cases of imminent hazard.

Except in one important respect (a citizen suit requirement) H.R. 10955 would accomplish the objectives I have outlined above with regard to standard setting and enforcement. But the bill goes much further in providing more Federal enforcement authority than I believe is necessary or desirable.

I also strongly recommend that the legislation provide for Federal mandatory standards addressed only to the essential health-related factors of water constituents and monitoring and reporting. For instance, the legislation should not provide Federal mandatory standards on operation and maintenance. We believe this is unnecessary with the incentives that would result from public notification of contaminant violations. Furthermore, we are reluctant to prohibit State and local governments from tailoring their individual maintenance and operation requirements due to specific differences such as geography and climate.

H.R. 10955 does have an appropriate public notification requirement. As a complement to this provision, I strongly urge the addition of a citizen suit provision.

FEDERAL FINANCIAL ASSISTANCE

H.R. 10955 contains several provisions for extensive Federal financial assistance with regard to drinking water which I do not believe are necessary. These are State program grants, demonstration grants and guaranteed loans to assist small public water supplies in meeting the standards.

I believe that the safe drinking water program contemplated by the legislation will stimulate State and local interest to adequately fund such programs. The costs of treatment, testing, and monitoring have been and should continue to be derived from the users of the

water supply. I see no compelling reason for Federal intrusion in this area.

With regard to the demonstration grants provision in H.R. 10955, the need for extensive demonstrations is not apparent at this time. To the extent that special demonstrations are required, they would be funded under the general research provisions in the legislation.

An authorization is also provided for guaranteed loans to small public water systems where they cannot otherwise finance improvements needed to comply with primary standards. We are unaware of any widespread need for such assistance. However, in the event that problems should emerge, the Farmers Home Administration has authority to provide low interest loans to small communities for use on public water systems. Accordingly we do not recommend inclusion of the loan guarantee provision since it is unnecessary and would overlap the authority administered by the Farmers Home Administration.

PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

H.R. 10955 includes extensive provisions for a program to protect the underground sources of drinking water.

The Federal Water Pollution Control Act Amendments of 1972 contain a number of significant provisions relating to ground water protection. Since neither we nor the States and local communities have had opportunity to implement these provisions, it is premature to ascertain whether additional legislative protection of ground water is necessary. We have not yet been able to fully gauge the extent that the provisions in this Act will go toward providing protection of these underground sources. I would therefore recommend that the provisions in the Safe Drinking Water Act relating to underground source protection be deferred at this time until we are able to fully evaluate the protection provided under existing authority.

In accordance with your request, we are enclosing a five-year projection of Federal costs for implementing H.R. 10955.

These cost estimates do not reflect possible changes in the scope or quality of the proposed program which might result from experience gained in the implementation phase, from a reexamination of the priorities of all of the Agency's programs, or from other causes. Therefore, these estimates do not present a commitment as to the amounts to be included in future budgets.

In conclusion Mr. Chairman, I strongly endorse the objective of H.R. 10955 and many of its specific provisions. I respectfully request, however, that you and your Committee consider the views and recommendations I have suggested.

Please be assured that members of my staff and I stand ready to assist you in any way that we are able.

The Office of Management and Budget advises that it concurs with the views set forth in this letter.

Sincerely yours,

RUSSELL E. TRAIN.

In addition, the following agency comments were received on H.R. 11876, a bill which deals with subject matter similar to that dealt with in section 1432 of H.R. 13002:

U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF THE ADMINISTRATOR, Washington, D.C., February 8, 1974.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on H.R. 11876, the "Emergency Chlorine Allocation Act of 1973" which is pending before the House Interstate and Foreign Commerce Committee.

The bill would direct the Administrator of the Environmental Protection Agency to promulgate regulations within 30 days after its enactment providing for the mandatory allocation of chlorine. He would also be authorized in consultation with the Secretary of Commerce to promulgate regulations providing mandatory allocation of other chemicals or substances used in the treatment of drinking water or wastewater as he deems necessary. Such regulations may require the performance of contracts relating to supplying chlorine or other chemicals for drinking water and wastewater treatment, and must delineate which functions under the legislation would be performed by EPA, Department of Commerce, or other Federal agencies. The bill would also provide exemptions from certain of the antitrust laws when complying with the Act. Finally, the legislation would expire on June 30, 1975.

The Environmental Protection Agency is in accord with the broad objectives of H.R. 11876. However, we believe that the bill goes further than is necessary and is otherwise not the appropriate mechanism to provide the Federal Government with necessary authority to deal with the chlorine shortage. We believe that the necessary authority to deal with any chlorine shortage which may materialize could best be provided through authority along the lines of the Defense Production Act.

The Environmental Protection Agency has given much consideration to the chlorine shortage problem during the past several months. Shortage and outage problems that have come to our attention this past year indicate that at least 27 water and wastewater utilities had shortages (down to 1-10 days supply on hand) during 1973; 9 wastewater utilities and at least 1 public water supply ceased chlorinating for periods up to two weeks because of outages or almost outages; and 6 repackaging companies had outages. These are only reported incidents that have come to our attention; it is very likely that many other shortages or even outage incidents actually occurred.

Chlorine is forecast to be in short supply throughout most of 1974 if current economic conditions continue. This could have a serious impact on chlorine users for drinking water and wastewater treatment. However, the shortfall will potentially affect only some fraction of these users since many producers have chosen to continue to provide supplies in spite of the shortage. Nearly one-half million tons of chlorine are estimated to be required for 1974 for drinking water and wastewater treatment. Even when there may technically be no shortages nationally, distribution problems could result in some shortages.

The Environmental Protection Agency has been keeping in close touch with local, State and other Federal agencies concerned with the chlorine shortage problem. We have also had some contact with chlorine producers and distributors. We have been dealing with individual shortage situations and have prevented some outage problems by contacting or meeting with public and industry officials. We have also provided our Regional Offices with guidance on responding to these shortage problems. Further, we have collaborated with the Department of Commerce and the General Services Administration with respect to determining and developing the appropriate role of Federal, State, and local agencies in responding to chlorine shortages.

Despite these efforts by EPA and other Federal agencies to remedy shortage problems through voluntary means, we are concerned that this may not be sufficient to cope with serious shortage situations if such should develop during 1974.

We therefore believe that there should be available, in case the need should arise, the necessary Federal authority to deal swiftly and effectively with critical public health problems that may be caused by shortage of chlorine. It is our view that this Federal authority should be limited to the following: (1) it should provide for *standby* authority to be used on case-by-case or other limited basis and not require the establishment of an extensive program for dealing with shortage situations; (2) it should authorize the standby mandatory authority to be used only in situations where there is a shortage or outage of chlorine and other chemicals necessary only for drinking water purification.

We also believe that efforts should be made to prevent and correct shortages through voluntary efforts prior to exercising the standby mandatory authority. Finally, we believe that the lead agency to administer an allocation program should be the Department of Commerce or some agency already having allocation experience with appropriate consultation and input from the Environmental Protection Agency and other Federal agencies.

We do not believe that it is necessary for the Federal Government to undertake an extensive mandatory allocation system for a situation that we believe is not going to occur on a large scale basis or in a great number of instances. We therefore do not see the need to have a large administrative force implementing an extensive program to prevent a relatively few shortage situations. On the other hand, a shortage or outage of chlorine or other necessary chemicals for drinking water purification is such a critical matter that it must be dealt with immediately and effectively. We strongly believe that while mandatory allocation authority is necessary, it need only be standby authority and not authority requiring the Federal Government to undertake a broad mandatory allocation system.

We also believe it sufficient to authorize this standby allocation authority for chlorine and other chemical substances necessary only for drinking water purification. Providing mandatory allocation authority to insure the safety of drinking water is readily distinguishable from other situations where shortages may occur. People that are served by public water supplies have no option but to drink the water

that is supplied to them; there is no reasonable substitute for safe water and usually no other place to obtain it. There must be no delay in obtaining a supply of chlorine should a shortage appear imminent—in other shortage situations there is time to proceed to overcome the shortage without an extreme emergency developing. Further, at this time there is no reasonable substitute for the chlorination of drinking water and because of the nature of this product it is not possible to guard against shortage situations by storing a supply. Even a short term interruption of the chlorination of drinking water while obtaining a new supply cannot be tolerated. Accordingly, there seems to be ample justification for providing standby allocation authority for insuring the safety of drinking water which is not present in other shortage situations.

We recommend that the Environmental Protection Agency not be the lead agency for an allocation program. The responsibilities of the EPA Administrator in the provision of safe drinking water direct that he should have an important function in the proposed allocation program. However, we believe that the primary responsibility for the allocation program should be conducted by a Federal agency which already has responsibilities in the allocation of scarce materials such as the Department of Commerce. It would be a waste of resources for EPA to duplicate the administrative machinery already in other agencies for implementing a standby mandatory allocation system of scarce materials. We would expect the Environmental Protection Agency to have the responsibility to provide surveillance and monitoring of such drinking water treatment operations and to keep the Department of Commerce and other agencies fully informed as to the adequacy of treatment and supplies of chlorine and other chemicals for drinking water in order that they may take any necessary action with regard to allocation.

We therefore do not recommend enactment of H.R. 11876 but believe that its purpose could be best accomplished by legislation along the lines of the Defense Production Act authorities but in a separate Act. We are exploring these mechanisms with the Department of Commerce, General Services Administration, and other Federal agencies and will report back to the Committee shortly.

We are advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the program of the President.

Sincerely,

RUSSELL E. TRAIN,
Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 29, 1974.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of December 17, 1973, requests the views of the General Services Administration on H.R. 11876, 93rd

Congress, a bill "To amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment."

The General Services Administration (GSA) recognizes the potential urgency of the need for legislation to insure adequate supplies of chlorine and other chemicals used for the purification of water. The Director of the Office of Preparedness, GSA, has endorsed the need for standby legislation in this area in light of the severe threat to public health posed by the lack or inadequacy of treatment of public water supplies. Accordingly, GSA supports the concept of legislation providing standby authority to deal with the actual occurrence of a chlorine shortage emergency. However, we do not believe that legislation is needed that would require the institution now of mandatory allocation of chlorine or related chemicals.

Based on information supplied by the Environmental Protection Agency and the Department of Commerce, we feel that there is a significant probability that measures to insure proper chlorine distribution will be necessary during the coming months, although such need is by no means certain. Under these circumstances, the institution of a mandatory program at this time would be unnecessary and thus wasteful of Federal resources. Standby authority to meet any actual shortage or outage situations that may arise, however, seems imperative in view of the potentially serious public health hazard involved and the need for immediate Federal action if a crisis develops.

In our view, it is also important that any legislation developed to meet this potential threat to public health be designed to utilize the priorities and allocations mechanism currently in use for other materials. Also, since the coordination among Federal allocations programs is currently achieved through the Office of Preparedness within GSA, use of existing mechanisms would insure that chlorine allocation actions are fully coordinated with other mandatory Federal priorities and allocations programs. Creating a whole new set of arrangements for the allocation of chlorine alone, when existing arrangement could be used, does not appear practical or economical. Accordingly, we would propose that the objective of providing chlorine and other chemicals for purification of drinking water on a standby, emergency basis, be achieved either by amending Title I of the Defense Production Act of 1950, as amended, or by enactment of similar, but separate legislation.

These alternatives are now being considered by GSA and other concerned agencies. We will submit a further report shortly.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

ALLAN G. KAUPINEN,
Assistant Administrator.

GENERAL COUNSEL,
DEPARTMENT OF COMMERCE,
Washington, D.C., February 14, 1974.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House
of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to H.R. 11876, a bill "To amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment."

Since H.R. 11876 provides for mandatory institution of allocations of these materials, we are opposed to its enactment. Further, we believe it inappropriate to vest allocation authority in the Environmental Protection Agency, when this Department already has a priorities and allocations system in being for other materials.

This Department is aware of the difficulties that some municipalities have experienced in obtaining supplies of chlorine and other substances. We are monitoring the situation closely, and have already been instrumental in the following initiatives:

Direct contact with chlorine producers to determine what action they are prepared to take to provide chlorine for municipal use.

Collaboration with EPA and GSA in the determination and development of the role of Federal, local, and state governments with respect to this matter.

Interagency reviews of the subject.

As a matter of principle, we believe at this time that the primary vehicle for meeting requirements for chlorine and other substances necessary for water treatment and purification should continue to be through voluntary efforts in the private sector. Nevertheless, we recognize the voluntary efforts to correct maldistribution problems may ultimately prove inadequate to assure availability of chlorine supplies at the proper place and at the proper time. Accordingly, we would support Federal legislation which would provide standby authority to establish priorities and allocations for appropriate distribution of these materials, if needed.

The compelling considerations which may ultimately warrant government controls over the distribution of chemicals for water treatment include the following:

Pure drinking water is essential to the public.

The public is generally dependent on municipal supplies of drinking water.

Unsafe drinking water could lead to local outbreaks of communicable diseases which could spread rapidly to become of nationwide importance.

Continuous chlorination is the only present, practical method to insure supplying safe drinking water.

Interruption of chlorination for more than a few hours could lead to a breakdown in the integrity of the drinking water system.

Establishing a stockpile of chlorine is not practical because of the nature of the material.

The current extreme shortage of chlorine is expected to be relieved by early 1975, at which time the free market should insure adequate supplies being available for water treatment.

Consequently, the Department of Commerce believes that the unique nature of the near term situation regarding supplies of safe drinking water requires that the government be in a position to take direct and prompt action to alleviate any crisis situations. While we are hopeful that voluntary actions will be effective, and while we intend to aggressively pursue all possible voluntary approaches, we believe the Executive Branch should have standby authority for mandatory allocation at such time as it may be required. We are exploring various alternatives to determine which would be the most effective to achieve this and will submit appropriate recommendations to you shortly.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

PUBLIC HEALTH SERVICE ACT

TITLE I—SHORT TITLE AND DEFINITIONS

* * * * *

DEFINITIONS

SEC. 2. When used in this Act—

(a) * * *

* * * * *

(f) The term "State" means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that (1) as used in section 361(d) such term means a State, or the District of Columbia, and (2) as used in title XIV such term includes Guam, American Samoa, and the Trust Territory of the Pacific Islands

* * * * *

TITLE XIV—SAFETY OF PUBLIC WATER SYSTEMS

PART A—DEFINITIONS

DEFINITIONS

SEC. 1401. For purposes of this title:

(1) The term "primary drinking water regulation" means a regulation which—

(A) applies to public water systems;

(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

(C) specifies for each such contaminant either—

(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of water which may be taken into the system and (ii) siting for new facilities for public water systems.

(2) The term "secondary drinking water regulation" means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water

(A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

(3) The term "maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(4) The term "public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A)

any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(5) The term "supplier of water" means any person who owns or operates a public water system.

(6) The term "contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(7) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(8) The term "Agency" means the Environmental Protection Agency.

(9) The term "Council" means the National Drinking Water Advisory Council established under section 1446.

(10) The term "municipality" means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

(11) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(12) The term "person" means an individual, corporation, company, association, partnership, State, or municipality.

PART B—PUBLIC WATER SYSTEMS

COVERAGE

SEC. 1411. Subject to sections 1415 and 1416, national primary drinking water regulations under this part shall apply to each public water system in each State; except that such regulations shall not apply to a public water system—

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply; and

(3) which does not sell water to any person.

NATIONAL DRINKING WATER REGULATIONS

SEC. 1412. (a) (1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after the date of enactment of this title. Within 180 days after such date of enactment, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on the date of enactment of this title.

(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than one year after the date of their promulgation.

(b) (1) (A) Within 10 days of the date the report on the study conducted pursuant to subsection (e) is submitted to Congress, the Administrator shall publish in the Federal Register, and provide opportunity for comment on, the—

(i) proposals in the report for recommended maximum contaminant levels for national primary drinking water regulations, and

(ii) list in the report of contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(B) Within 90 days after the date the Administrator makes the publication required by subparagraph (A), he shall by rule establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report on the study conducted pursuant to subsection (e), may have any adverse effect on the health of persons. Each such recommended maximum contaminant level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall, on the basis of the report on the study conducted pursuant to subsection (e), list in the rules under this subparagraph any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. Based on information available to him, the Administrator may by rule change recommended levels established under this subparagraph or change such list.

(2) On the date the Administrator establishes pursuant to paragraph (1) (B) recommended maximum contaminant levels he shall publish in the Federal Register proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.

(3) Revised national primary drinking water regulations promulgated under paragraph (2) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is established or which is listed in a rule under paragraph (1) (B). The maximum contaminant level specified in a revised national primary drinking water regulation for a contaminant shall be as close to the recommended maximum contaminant level established under paragraph (2) for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been established under paragraph (2) shall reduce such contaminant to a level which is as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant which is listed under paragraph (1) (B) shall require treatment necessary in the Administrator's judgment to prevent known or anticipated adverse effects on the health of persons to the extent feasible. For purposes of this paragraph, the

term "feasible" means feasible with the use of technology, treatment techniques, and other means, which the Administrator finds are generally available (taking cost into consideration).

(4) Revised national primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 5 years.

(5) Revised national primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect not later than 1 year after the date of their promulgation. Regulations under subsection (a) shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.

(c) The Administrator shall publish proposed national secondary drinking water regulations within 270 days after the date of enactment of this title. Within 90 days after publication of any such regulation, he shall promulgate such regulation with such modifications as he deems appropriate. Regulations under this subsection may be amended from time to time.

(d) Regulations under this section shall be prescribed in accordance with section 553 of title 5, United States Code (relating to rulemaking). In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary and the National Drinking Water Advisory Council.

(e) (1) The Administrator shall enter into appropriate arrangements with the National Academy of Sciences (or with another independent scientific organization if appropriate arrangements cannot be made with such Academy) to conduct a study to determine (A) the maximum contaminant levels which should be recommended under subsection (b) (2) in order to protect the health of persons from any known or anticipated adverse effects, and (B) the existence of any contaminants the levels of which in drinking water cannot be determined but which may have an adverse effect on the health of persons.

(2) The result of the study shall be reported to Congress no later than 2 years after the date of enactment of this title. The report shall contain (A) a summary and evaluation of relevant publications and unpublished studies; (B) a statement of methodologies and assumptions for estimating the levels at which adverse health effects may occur; (C) a statement of methodologies and assumptions for estimating the margin of safety which should be incorporated in the national primary drinking water regulations; (D) proposals for recommended maximum contaminant levels for national primary drinking water regulations, based on the methodologies, assumptions, and studies referred to in clauses (A), (B), and (C) and in paragraph (4); (E) a list of contaminants the level of which in drinking water cannot be determined but which may have an adverse effect on the health of persons; and (F) recommended studies and test protocols for future research on the health effects of drinking water contaminants, including a list of the major research priorities and estimated costs necessary to conduct such priority research.

(3) In developing its proposals for recommended maximum contaminant levels under paragraph (2) (D) the National Academy of Sciences (or other organization preparing the report) shall evaluate

and explain (separately and in composite) the impact of the following considerations:

(A) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(B) The exposure to contaminants in other media than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(C) Synergistic effects resulting from exposure to or interaction by two or more contaminants.

(D) The contaminant exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

(4) In making the study under this subsection, the National Academy of Sciences (or other organization) shall collect and correlate (A) morbidity and mortality data and (B) monitored data on the quality of drinking water. Any conclusions based on such correlation shall be included in the report of the study.

(5) Neither the report of the study under this subsection nor any draft of such report shall be submitted to the Office of Management and Budget or to any other Federal agency (other than the Environmental Protection Agency) prior to its submission to Congress.

(6) Of the funds authorized to be appropriated to the Administrator by this title, such amounts as may be required shall be available to carry out the study and to make the report directed by paragraph

(2) of this subsection.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1413. (a) For purposes of this title, a State has primary enforcement responsibility for public water systems during any period for which the Administrator determines (pursuant to regulations prescribed under subsection (b)) that such State—

(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the interim and revised national primary drinking water regulations in effect under such section;

(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations, including conducting such monitoring and making such inspections as the Administrator may require by regulation;

(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meets the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than in conditions under, and the manner in, which

variances and exemptions may be granted under sections 1415 and 1416.

(b) (1) The Administrator shall, by regulation (proposed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are no longer met with respect to a State may become effective, the Administrator shall notify such State of the determination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this title when it is determined to have primary enforcement responsibility for public water systems.

(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.

FAILURE BY STATE TO ASSURE ENFORCEMENT OF DRINKING WATER REGULATIONS

SEC. 1414. (a) (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 1413(a)) that any public water system—

(A) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(B) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto, he shall so notify the State and provide such advice and technical assistance to such State and public water system as may be appropriate to bring the system into compliance with such regulation or requirement by the earliest feasible time. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such findings and request the State to report within fifteen days from the date of such public notice as to the steps being taken to bring the system into compliance (including reasons for anticipated steps to be taken to bring the system

into compliance and for any failure to take steps to bring the system into compliance). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B) (i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to implement by such sixtieth day adequate procedures to bring the system into compliance by the earliest feasible time the State abused its discretion in carrying out primary enforcement responsibility for public water systems, the Administrator may commence a civil action under subsection (b).

(2) Whenever, on the basis of information available to him, the Administrator finds during a period during which a State does not have primary enforcement responsibility for public water systems that a public water system in such State—

(A) for which a variance under section 1415(a) (2) or an exemption under section 1416(f) is not in effect, does not comply with any national primary drinking water regulation in effect under section 1412, or

(B) for which a variance under section 1415(a) (2) or an exemption under section 1416(f) is in effect, does not comply with any schedule, control measure, or other requirement imposed pursuant thereto,

he may commence a civil action under subsection (b).

(b) The Administrator may bring a civil action in the appropriate United States district court to require compliance with a national primary drinking water regulation or with any schedule, control measure, or other requirement imposed pursuant to a variance or exemption granted under section 1415 or 1416 if—

(1) authorized under paragraph (1) or (2) of subsection (a), or

(2) if requested by (A) the chief executive officer of the State in which is located the public water system which is not in compliance with such regulation or requirement, or (B) the agency of such State which has jurisdiction over compliance by public water systems in the State with national primary drinking water regulations or State drinking water regulations.

The court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

(c) Each owner or operator of a public water system shall give notice to the persons served by it—

(1) of any failure on the part of the public water system to—

(A) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation, or

(B) perform monitoring required by section 1445(a), and
 (2) if the public water system is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

(A) the existence of such variance or exemption, and

(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.

The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months, shall be given by publication in a newspaper of general circulation serving the area served by each such water system (as determined by the Administrator), and shall be furnished to the other communications media serving such area. If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than \$5,000.

(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been promulgated, one or more public water systems in a State do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State.

(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

(f) If the Administrator makes a finding of noncompliance (described in subparagraph (A) or (B) of subsection (a)(1)) with respect to a public water system in a State which has primary enforcement responsibility, the Administrator may, for the purpose of assisting that State in carrying out such responsibility and upon the petition of such State or public water system or persons served by such system, hold, after appropriate notice, public hearings for the purpose of gathering information from technical or other experts, Federal, State, or other public officials, representatives of such public water system, persons served by such system, and other interested persons on—

(1) the ways in which such system can within the earliest feasible time be brought into compliance with the regulation or requirement with respect to which such finding was made, and

(2) the means for the maximum feasible protection of the public health during any period in which such system is not in compliance with a national primary drinking water regulation or requirement applicable to a variance or exemption.

On the basis of such hearings the Administrator shall issue recommendations which shall be sent to such State and public water system and shall be made available to the public and communications media.

VARIANCES

SEC. 1415. (a) Notwithstanding any other provision of this part, variances from national primary drinking water regulations may be granted as follows:

(1) (A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water resources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a national primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

(D) (i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

(I) identify each public water system with respect to which the finding was made,

(II) specify the reasons for the finding, and

(III) as appropriate, propose revocations of specific variances or propose revised control measures or monitoring or other monitoring or other requirements for specific public water systems granted variances, or both.

(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(iii) If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised control measure or other requirement was proposed.

(2) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility.

(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

(b) Any control measure or other requirement on which a variance granted under this section is conditioned may be enforced under section 1414 as if such control measure was part of a national primary drinking water regulation.

(c) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking

water regulation which specifies for a contaminant (in accordance with section 1401(1)(C)(ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412(b)(3).

EXEMPTIONS

SEC. 1416. (a) A State which has primary enforcement responsibility may exempt any public system within the State's jurisdiction from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable national primary drinking water regulation upon a finding that—

(1) due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement, and

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement.

(b) (1) If a State grants a public water system an exemption under subsection (a), it shall prescribe, within one year of the date the exemption is granted, a schedule for—

(A) compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment technique requirement with respect to which the exemption was granted, and

(B) implementation by the public water system of such control measures as the State may require for each contaminant, subject to such contaminant level requirement or treatment technique requirement, during the period ending on the date compliance with such requirement is required.

Before a schedule prescribed by a State pursuant to this subsection may take effect, the State shall provide notice and opportunity for a public hearing on the schedule. A notice given pursuant to the preceding sentence may cover the prescribing of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(2) (A) A schedule prescribed pursuant to this subsection for a public water system granted an exemption under subsection (a) shall require compliance by the system with each contaminant level and treatment technique requirement with respect to which the exemption was granted as expeditiously as practicable (as the State may reasonably determine) but (except as provided in subparagraph (B))—

(i) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412(a), not later than January 1, 1981; and

(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, not later than seven years after the date such requirement takes effect.

(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for

a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—

(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by interim national primary drinking water regulations, be not later than January 1, 1983; and

(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by revised national primary drinking water regulations, be not later than nine years after such requirement takes effect.

(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.

(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d) (2) or the schedule is revised by the Administrator under this subsection.

(c) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.

(d) (1) 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 exemptions granted (and schedules prescribed pursuant thereto) by the States 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.

(2) (A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—

(i) identify each exempt public water system with respect to which the finding was made,

(ii) specify the reasons for the finding, and

(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.

(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) promulgate (with such modifications as he deems appropriate)

such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence.

(C) If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.

(e) For purposes of this section, the term "treatment technique requirement" means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401 (1) (C) (ii)) each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412 (b) (3).

(f) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to exempt public water systems in such State from maximum contaminant level requirements and treatment technique requirements under the same conditions and in the same manner as the State would be authorized to grant exemptions under this section if it had primary enforcement responsibility.

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

REGULATIONS FOR STATE PROGRAMS

SEC. 1421. (a) (1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after the date of enactment of this title. Within 180 days after publication of such proposed regulations, he shall promulgate such regulations with such modifications as he deems appropriate. Any regulation under this subsection may be amended from time to time.

(2) Any regulation under this section shall be proposed and promulgated in accordance with section 553 of title 5, United States Code (relating to rulemaking), except that the Administrator shall provide opportunity for public hearing prior to promulgation of such regulations. In proposing and promulgating regulations under this section, the Administrator shall consult with the Secretary, the National Drinking Water Advisory Council, and other appropriate Federal entities and with interested State entities.

(b) (1) Regulations under subsection (a) for State underground injection programs shall contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources within the meaning of subsection (d) (2). Such regula-

tions shall require that a State program, in order to be approved under section 1422—

(A) shall prohibit, effective three years after the date of the enactment of this title, any underground injection in such State which is not authorized by a permit issued by the State (except that the regulations may permit a State to authorize underground injection by rule);

(B) shall require (i) in the case of a program which provides for authorization of underground injection by permit, that the applicant for the permit to inject must satisfy the State that the underground injection will not endanger drinking water sources, and (ii) in the case of a program which provides for such an authorization by rule, that no rule may be promulgated which authorizes any underground injection which endangers underground water sources;

(C) shall include inspection, monitoring, recordkeeping, and reporting requirements; and

(D) shall apply (i) as prescribed by section 1447 (b), to underground injections by Federal agencies, and (ii) to underground injections by any other person whether or not occurring on property owned or leased by the United States.

(2) Regulations for State underground injection control programs may not prescribe requirements which interfere with or impede—

(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(B) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection.

(c) (1) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (1) (B) (i)) temporary permits for underground injection which may be effective until the expiration of four years after the date of enactment of this title, if—

(A) the Administrator finds that the State has demonstrated that it is unable and could not reasonably have been able to process all permit applications within the time available;

(B) the Administrator determines the adverse effect on the environment of such temporary permits is not unwarranted;

(C) such temporary permits will be issued only with respect to injection wells in operation on the date on which such State's permit program approved under this part first takes effect and for which there was inadequate time to process its permit application; and

(D) the Administrator determines the temporary permits require the use of adequate safeguards established by rules adopted by him.

(2) The Administrator may, upon application of the Governor of a State which authorizes underground injection by means of permits, authorize such State to issue (without regard to subsection (b) (1) (B) (i)), but after reasonable notice and public hearing, one or more tem-

porary permits each of which is applicable to a particular injection well and to the underground injection of a particular fluid and which may be effective until the expiration of four years after the date of enactment of this title, if the State has found, on the record of such hearing—

(A) that technology (or other means) to permit safe injection of the fluid in accordance with the applicable underground injection control program is not generally available (taking costs into consideration);

(B) that injection of the fluid would be less harmful to health than the use of other available means of disposing of waste or producing the desired product; and

(C) that available technology or other means have been employed (and will be employed) to reduce the volume and toxicity of the fluid and to minimize the potentially adverse effect of the injection on the public health.

(d) For purposes of this part:

(1) The term "underground injection" means the subsurface emplacement of fluids by well injection.

(2) Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 1422. (a) Within 180 days after the date of enactment of this title, the Administrator shall list in the Federal Register each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources. Such list may be amended from time to time.

(b) (1) (A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421; and

(ii) will keep such records and make such reports with respect to its activities under clause (i) as the Administrator may require by regulation.

(B) Within 270 days of any amendment of a regulation under section 1421 revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2) or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after such disapproval or expiration date (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b). Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meet such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) For purposes of this title, the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

FAILURE OF STATE TO ASSURE ENFORCEMENT OF PROGRAM

SEC. 1423. (a)(1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3)) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15 days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement

(including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

(b)(1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed \$5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources, shall be subject to a civil penalty of not more than \$5,000 per day. In addition, if such violation or failure to comply is willful, such person shall be punished by a fine of not more than \$5,000 per day.

(c) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title.

INTERIM REGULATION OF UNDERGROUND INJECTIONS

SEC. 1424. (a)(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period

beginning on the date of the designation and ending on the date on which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a petition submitted under this paragraph, the Administrator shall either issue the permit for which the petition was submitted or shall deny its issuance.

(3) The Administrator may issue a permit for the operation of a new underground injection well in an area designated under subsection (a) only if he finds that the operation of such well will not cause contamination of the aquifer of such area so as to create a significant hazard to public health. The Administrator may condition the issuance of such a permit upon the use of such control measures in connection with the operation of such well, for which the permit is to be issued, as he deems necessary to assure that the operation of the well will not contaminate the aquifer of the designated area in which the well is located so as to create a significant hazard to public health.

(c) Any person who operates a new underground injection well in violation of subsection (b) shall be subject to a civil penalty of not more than \$5,000 for each day in which such violation occurs. In addition, if such violation is willful, such person shall be punished by a fine of not more than \$5,000 for each day in which such violation occurs. If the Administrator has reason to believe that any person is violating or will violate subsection (b), he may petition the United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce such subsection.

(d) For purposes of this section, the term "new underground injection well" means an underground injection well whose operation was not approved by appropriate State and Federal agencies before the date of the enactment of this title.

PART D—EMERGENCY POWERS

EMERGENCY POWERS

SEC. 1431. (a) Notwithstanding any other provision of this title, the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to protect the health of such persons, may take such actions as he may deem necessary in order to protect the health of such persons. Such action may include (but shall not be limited to) (1) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers), and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) (1) shall be punished by a fine of not more than \$5,000 per day of violation.

PART E—GENERAL PROVISIONS

ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES OF CHEMICALS NECESSARY FOR TREATMENT OF WATER

SEC. 1441. (a) If any person who uses chlorine, activated carbon, lime, ammonia, soda ash, potassium permanganate, caustic soda, or other chemical or substance for the purpose of treating water in any public water system or in any public treatment works determines that the amount of such chemical or substance necessary to effectively treat such water is not reasonably available to him or will not be so available to him when required for the effective treatment of such water, such person may apply to the Administrator for a certification (hereinafter in this section referred to as a "certification of need") that the amount of such chemical or substance which such person requires to effectively treat such water is not reasonably available to him or will not be so available when required for the effective treatment of such water.

(b) (1) An application for a certification of need shall be in such form and submitted in such manner as the Administrator may require and shall (A) specify the persons the applicant determines are able to provide the chemical or substance with respect to which the application is submitted, (B) specify the persons from whom the applicant has sought such chemical or substance, and (C) contain such other information as the Administrator may require.

(2) Upon receipt of an application under this section, the Administrator shall (A) publish in the Federal Register a notice of the receipt of the application and a brief summary of it, (B) notify in writing

each person whom the President or his delegate (after consultation with the Administrator) determines could be made subject to an order required to be issued upon the issuance of the certification of need applied for in such application, and (C) provide an opportunity for the submission of written comments on such application. The requirements of the preceding sentence of this paragraph shall not apply when the Administrator for good cause finds (and incorporates the finding with a brief statement of reasons therefor in the order issued) that waiver of such requirements is necessary in order to protect the public health.

(3) Within 30 days after—

(A) the date a notice is published under paragraph (2) in the Federal Register with respect to an application submitted under this section for the issuance of a certification of need, or

(B) the date on which such application is received if as authorized by the second sentence of such paragraph no notice is published with respect to such application,

the Administrator shall take action either to issue or deny the issuance of a certification of need.

(c) (1) If the Administrator finds that the amount of a chemical or substance necessary for an applicant under an application submitted under this section to effectively treat water in a public water system or in a public treatment works is not reasonably available to the applicant or will not be so available to him when required for the effective treatment of such water, the Administrator shall issue a certification of need. Not later than seven days following the issuance of such certification, the President or his delegate shall issue an order requiring the provision to such person of such amounts of such chemical or substance as the Administrator deems necessary in the certification of need issued for such person. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

(2) Orders which are to be issued under paragraph (1) to manufacturers, producers, and processors of a chemical or substance shall be equitably apportioned, as far as practicable, among all manufacturers, producers, and processors of such chemical or substance; and orders which are to be issued under paragraph (1) to distributors and repackagers of a chemical or substance shall be equitably apportioned, as far as practicable, among all distributors and repackagers of such chemical or substance. In apportioning orders issued under paragraph (1) to manufacturers, producers, processors, distributors, and repackagers of chlorine, the President or his delegate shall, in carrying out the requirements of the preceding sentence, consider—

(A) the geographical relationships and established commercial relationships between such manufacturers, producers, processors, distributors, and repackagers and the persons for whom the orders are issued;

(B) in the case of orders to be issued to producers of chlorine, the (i) amount of chlorine historically supplied by each such producer to treat water in public water systems and public treatment works, and (ii) share of each such producer of the total annual production of chlorine in the United States; and

(C) such other factors as the President or his delegate may determine are relevant to the apportionment of orders in accordance with the requirements of the preceding sentence.

(3) Subject to subsection (f), any person for whom a certification of need has been issued under this subsection may upon the expiration of the order issued under paragraph (1) upon such certification apply under this section for additional certifications.

(d) There shall be available as a defense to any action brought for breach of contract in a Federal or State court arising out of delay for failure to provide, sell, or offer for sale or exchange a chemical or substance subject to an order issued pursuant to subsection (c) (1), that such delay or failure was caused solely by compliance with such order.

(e) (1) Whoever knowingly fails to comply with any order issued pursuant to subsection (c) (1) shall be fined not more than \$5,000 for each such failure to comply.

(2) Whoever fails to comply with any order issued pursuant to subsection (c) (1) shall be subject to a civil penalty of not more than \$2,500 for each such failure to comply.

(3) Whenever the Administrator or the President or his delegate has reason to believe that any person is violating or will violate any order issued pursuant to subsection (c) (1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provision of such order.

(f) No certification of need or order issued under this section may remain in effect—

(1) for more than one year, or

(2) after June 30, 1977,

whichever occurs first.

RESEARCH, TECHNICAL ASSISTANCE, INFORMATION, TRAINING OF PERSONNEL

Sec. 1442. (a) (1) The Administrator may conduct research, studies, and demonstrations relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of a dependably safe supply of drinking water, including—

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

(B) improved methods to identify and measure the health effects of contaminants in drinking water;

(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from water;

(D) improved methods for providing a dependably safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water; and

(E) improved methods of protecting underground water sources of public water systems from contamination.

(2) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 1443(c)(1)).

(3) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.

(4) The Administrator shall conduct a survey and study of—

(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water systems, and

(B) means of control of such waste disposal.

Not later than one year after the date of enactment of this title, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

(5) The Administrator shall carry out a study of methods of underground injection which do not result in the degradation of underground drinking water sources.

(6) The Administrator shall carry out a study of methods of preventing, detecting, and dealing with surface spills of contaminants which may degrade underground water sources for public water systems.

(7) The Administrator shall carry out a study of virus contamination of drinking water sources and means of control of such contamination.

(8) The Administrator shall carry out a study of the nature and extent of the impact on underground water which supplies or can reasonably be expected to supply public water systems of (A) abandoned injection or extraction wells; (B) intensive application of pesticides and fertilizers in underground water recharge areas; and (C) ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas.

(b) In carrying out this title, the Administrator is authorized to—

(1) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations in connection therewith;

(2) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to the purposes of this title;

(3) make grants to, and enter into contracts with, any public agency, educational institution, and any other organization, in accordance with procedures prescribed by the Administrator, under which he may pay all or a part of the costs (as may be determined by the Administrator) of any project or activity which is designed—

(A) to develop, expand, or carry out a program (which may combine training education and employment) for training persons for occupations involving the public health aspects of providing safe drinking water;

(B) to train inspectors and supervisory personnel to train or supervise persons in occupations involving the public health aspects of providing safe drinking water; or

(C) to develop and expand the capability of programs of States and municipalities to carry out the purposes of this title (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 1443(d))).

(c) There are authorized to be appropriated to carry out the provisions of this section \$15,000,000 for the fiscal year ending June 30, 1975; \$25,000,000 for the fiscal year ending June 30, 1976; and \$35,000,000 for the fiscal year ending June 30, 1977.

GRANTS FOR STATE PROGRAMS

Sec. 1443. (a)(1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out public water system supervision programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within one year from the date of such grant a public water system supervision program, and

(B) will, within that one year, assume primary enforcement responsibility for public water systems within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed primary enforcement responsibility for public water systems within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, a public water system supervision program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. To the extent the applicable appropriation permits, the allotment of a State for any fiscal year shall not be less than \$50,000.

(5) For purposes of making grants under paragraph (1) there are authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1976, and \$25,000,000 for the fiscal year ending June 30, 1977.

(b) (1) From allotments made pursuant to paragraph (4), the Administrator may make grants to States to carry out underground water source protection programs.

(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to the Administrator in such form and manner as he may require. The Administrator may not approve an application of a State for its first grant under paragraph (1) unless he determines that the State—

(A) has established or will establish within two years from the date of such grant an underground water source protection, and

(B) will, within such two years, assume primary enforcement responsibility for underground water sources within the State.

No grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed primary enforcement responsibility for underground water sources within the State.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's costs (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, an underground water source protection program.

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, and other relevant factors.

(5) For the purposes of making grants under paragraph (1) there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1976, and \$7,500,000 for the fiscal year ending June 30, 1977.

(c) For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a) (3).

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a program which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b) (1) (A) (ii).

SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS; GUARANTEED LOANS

SEC. 1444. (a) The Administrator may make grants to any person for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or im-

proved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66 $\frac{2}{3}$ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the National Drinking Water Advisory Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.

(c) For the purposes of making grants under subsections (a) and (b) of this section there are authorized to be appropriated \$7,500,000 for the fiscal year ending June 30, 1975; and \$7,500,000 for the fiscal year ending June 30, 1976; and \$10,000,000 for the fiscal year ending June 30, 1977.

(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1) such system cannot obtain financial assistance necessary to comply with such regulations from any other source, and (2) the Administrator determines that any facilities constructed with a loan guaranteed under this subsection is not likely to be made obsolete by subsequent changes in primary regulations. The aggregate amount of indebtedness guaranteed with respect to any system may not exceed \$10,000,000. The Administrator shall prescribe regulations to carry out his subsection.

RECORDS AND INSPECTIONS

SEC. 1445. (a) Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 1412 or to an applicable underground injection control program (as defined in section 1422(c)), who is or may be subject to the permit requirement of section 1424 or to an order issued

under section 1441, or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, or in administering any program of financial assistance under this title.

(b) The Administrator, or representatives of the Administrator duly designated by him, upon presenting appropriate credentials and a written notice to any supplier of water or other person subject to a primary drinking water regulation prescribed under section 1412 or applicable underground injection control program (or person in charge of any of the property of such supplier or other person), is authorized to enter any establishment or facility or other property of such supplier or other person in order to determine whether such supplier or other person has acted or is acting in compliance with this title, including for this purpose, inspection, at reasonable times, records, files, papers, processes, controls, and facilities, or in order to test any feature of a public water system, including its raw water source. The Administrator or the Comptroller General (or any representative designated by either) shall have access for the purpose of audit and examination to any records, reports, or information of a grantee which are required to be maintained under subsection (a) or which are pertinent to any financial assistance under this title.

(c) Whoever fails or refuses to comply with any requirement of subsection (a) or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) shall be fined not more than \$5,000.

(d) (1) Subject to paragraph (2), upon a showing satisfactory to the Administrator by any person that any information required under this section from such person, if made public, would divulge trade secrets or secret processes of such person, the Administrator shall consider such information confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. If the applicant fails to make a showing satisfactory to the Administrator, the Administrator shall give such applicant thirty days' notice before releasing the information to which the applicant relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section may be disclosed (1) to other officers, employees, or authorized representatives of the United States concerned with carrying out this title, (2) when relevant in any proceeding under this title, or (3) to the extent it deals with the level of contaminants in drinking water. For purposes of this subsection the term "information required under this section" means any papers, books, documents, or information, or any particular part thereof, reported to or otherwise obtained by the Administrator under this section.

(e) For purposes of this section, (1) the term "grantee" means any person who applies for or received financial assistance, by grant, contract, or loan guarantee under this title, and (2) the term "person" includes a Federal agency.

NATIONAL DRINKING WATER ADVISORY COUNCIL

SEC. 1446. (a) (1) There is established a National Drinking Water Advisory Council which shall consist of fifteen members appointed by the Administrator after consultation with the Secretary. Five members shall be appointed from the general public; five members shall be appointed from appropriate State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply. Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the term of the members first taking office shall expire as follows: Five shall expire three years after the date of enactment of this title, five shall expire two years after such date, and five shall expire one year after such date, as designated by the Administrator at the time of appointment.

The members of the Council shall be eligible for reappointment.

(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this title.

(c) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council.

FEDERAL AGENCIES

SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412.

(b) (1) Each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

(2) The Administrator shall waive compliance with paragraph (1) of this subsection upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted.

and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

GENERAL PROVISIONS

SEC. 1448. (a) (1) The Administrator is authorized to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.

(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.

(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.

(d) (1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.

(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a-276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.

(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection shall include a statement on the actual and anticipated cost to public water systems in each State of compliance with the requirements of this title. The Office of Management and Budget may review any report required by this subsection before its submission to Congress, but the Office may not revise any such report, require any revision in any such report, or delay its submission beyond the day prescribed for its submission, and may submit to Congress its comments respecting any such report.

FEDERAL FOOD, DRUG, AND COSMETIC ACT

CHAPTER IV—FOOD

BOTTLED DRINKING WATER STANDARDS

SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments.

93D CONGRESS
2D SESSION

H. R. 13002

[Report No. 93-1185]

[Report No. 93-1185]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 1974

MR. ROGERS (for himself, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. GUNTER, and Mr. ROBISON of New York) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

JULY 10, 1974

Reported with an amendment, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Safe Drinking Water
4 Act”.

~~PUBLIC WATER SYSTEMS~~

6 SEC. 2. ~~(a)~~ The Public Health Service Act is amended
7 by inserting after title XIII the following new title:

1 ~~"TITLE XIV—SAFETY OF PUBLIC WATER~~
2 ~~SYSTEMS~~

3 ~~"PART A—DEFINITIONS~~

4 ~~"SEC. 1401. For purposes of this title:~~

5 ~~"(1) The term 'primary drinking water regula-~~
6 ~~tion' means a regulation which—~~

7 ~~"(A) applies to public water systems;~~

8 ~~"(B) specifies contaminants which, in the~~
9 ~~judgment of the Administrator, may have any ad-~~
10 ~~verse effect on the health of persons;~~

11 ~~"(C) specifies for each such contaminant~~
12 ~~either—~~

13 ~~"(i) a maximum contaminant level, if, in~~
14 ~~the judgment of the Administrator, it is eco-~~
15 ~~nomicallly and technologically feasible to ascer-~~
16 ~~tain the level of such contaminant in water in~~
17 ~~public water systems, or~~

18 ~~"(ii) if, in the judgment of the Administra-~~
19 ~~tor, it is not economically or technologically~~
20 ~~feasible to so ascertain the level of such con-~~
21 ~~taminant, each treatment technique known to~~
22 ~~the Administrator which leads to a reduction in~~
23 ~~the level of such contaminant sufficient to satisfy~~
24 ~~the requirements of section 1412; and~~

25 ~~"(D) contains criteria and procedures to assure~~

1 ~~a supply of drinking water which dependably~~
2 ~~complies with such maximum contaminant levels;~~
3 ~~including quality control and testing procedures to~~
4 ~~insure compliance with such levels and to insure~~
5 ~~proper operation and maintenance of the system,~~
6 ~~and requirements as to (i) the minimum quality of~~
7 ~~water which may be taken into the system and (ii)~~
8 ~~siting for new facilities for public water systems.~~

9 ~~"(2) The term 'secondary drinking water regula-~~
10 ~~tion' means a regulation which applies to public water~~
11 ~~systems and which specifies the maximum contaminant~~
12 ~~levels which, in the judgment of the Administrator, are~~
13 ~~requisite to protect the public welfare. Such regulations~~
14 ~~may apply to any contaminant in drinking water (A)~~
15 ~~which may adversely affect taste, odor, or appearance of~~
16 ~~such water, or (B) which may otherwise adversely~~
17 ~~affect the public welfare. Such regulations may vary~~
18 ~~according to geographic and other circumstances.~~

19 ~~"(3) The term 'maximum contaminant level' means~~
20 ~~the maximum permissible level of a contaminant in~~
21 ~~water which is delivered to any user of a public water~~
22 ~~system.~~

23 ~~"(4) The term 'public water system' means a sys-~~
24 ~~tem for the provision to the public of piped water for~~
25 ~~human consumption, if such system has at least fifteen~~

1 ~~service connections or regularly serves at least twenty-~~
2 ~~five individuals. Such term includes any collection, treat-~~
3 ~~ment, storage, and distribution facilities under control~~
4 ~~of the operator of such system and used primarily in~~
5 ~~connection with such system, and any collection or pre-~~
6 ~~treatment storage facilities not under such control which~~
7 ~~are used primarily in connection with such system.~~

8 ~~“(5) The term ‘supplier of water’ means any per-~~
9 ~~son who owns or operates a public water system.~~

10 ~~“(6) The term ‘contaminant’ means any physical,~~
11 ~~chemical, biological, or radiological substance or matter~~
12 ~~in water.~~

13 ~~“(7) The term ‘Administrator’ means the Adminis-~~
14 ~~trator of the Environmental Protection Agency.~~

15 ~~“(8) The term ‘Agency’ means the Environmental~~
16 ~~Protection Agency.~~

17 ~~“(9) The term ‘Council’ means the National Drink-~~
18 ~~ing Water Advisory Council established under section~~
19 ~~1236.~~

20 ~~“(10) The term ‘municipality’ means a city, town,~~
21 ~~or other public body created by or pursuant to State~~
22 ~~law, or an Indian tribal organization authorized by law.~~

23 ~~“(11) The term ‘Federal agency’ means any~~
24 ~~department, agency, or instrumentality of the United~~
25 ~~States.~~

1 ~~“(12) The term ‘person’ means an individual,~~
2 ~~corporation, company, association, partnership, State, or~~
3 ~~municipality.~~

4 ~~“PART B PUBLIC WATER SYSTEMS~~

5 ~~“COVERAGE~~

6 ~~“SEC. 1411. Subject to sections 1415 and 1416,~~
7 ~~national primary drinking water regulations under this part~~
8 ~~shall apply to each public water system in each State; except~~
9 ~~that such regulations shall not apply to a public water~~
10 ~~system—~~

11 ~~“(1) which consists only of distribution and storage~~
12 ~~facilities (and does not have any collection and treatment~~
13 ~~facilities);~~

14 ~~“(2) which obtains all of its water from, but is not~~
15 ~~owned or operated by, a public water system to which~~
16 ~~such regulations apply; and~~

17 ~~“(3) which does not sell water to any person.~~

18 ~~“NATIONAL DRINKING WATER REGULATIONS~~

19 ~~“SEC. 1412. (a) (1) The Administrator shall publish~~
20 ~~proposed national interim primary drinking water regula-~~
21 ~~tions within 90 days after the date of enactment of this title.~~
22 ~~Within 180 days after such date of enactment, he shall pro-~~
23 ~~mulgate such regulations with such modifications as he deems~~
24 ~~appropriate. Regulations under this paragraph may be~~
25 ~~amended from time to time.~~

~~"(2) National interim primary drinking water regulations prescribed under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which are generally available (taking costs into consideration) on the date of enactment of this title.~~

~~"(3) The interim primary regulations first promulgated under paragraph (1) shall take effect not later than 2 one year after the date of their promulgation.~~

~~"(b) (1) Within 60 days after the date of the report of the results of the study conducted under subsection (c), the Administrator shall publish in the Federal Register (A) recommended maximum contaminant levels, (B) a list of contaminants for which recommended maximum contaminant levels cannot be established as provided in paragraph (2), and (C) proposed revised national primary drinking water regulations (meeting the requirements of paragraph (3)). Within 180 days after the date of publication of such proposed regulations, he shall promulgate such revised drinking water regulations with such modifications as he deems appropriate.~~

~~"(2) The Administrator shall by regulation establish recommended maximum contaminant levels for each contaminant which, in his judgment based on the report under subsection (c), may have any adverse effect on the health of persons. Each such recommended maximum contaminant~~

~~level shall be set at a level at which, in the Administrator's judgment based on such report, no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. In addition, he shall in the regulations under this paragraph list any contaminant the level of which cannot be accurately enough measured in drinking water to establish a recommended maximum contaminant level and which may have any adverse effect on the health of persons. He may change such recommended levels and the contaminants to which they apply, and such list, from time to time, based on information available to him.~~

~~"(3) Revised national primary drinking water regulations promulgated under paragraph (1) of this subsection shall be primary drinking water regulations which specify a maximum contaminant level or require the use of treatment techniques for each contaminant for which a recommended maximum contaminant level is published or which is listed under paragraph (2). The maximum contaminant level for a contaminant under such a regulation shall be as close to the recommended maximum contaminant level for such contaminant as is feasible. A required treatment technique for a contaminant for which a recommended maximum contaminant level has been prescribed shall reduce such contaminant to a level which is as close to the recommended maximum~~

1 ~~contaminant level for such contaminant as is feasible. A re-~~
 2 ~~quired treatment technique for a contaminant which is listed~~
 3 ~~under paragraph (2) shall require treatment necessary in~~
 4 ~~the Administrator's judgment to prevent known or antici-~~
 5 ~~pated adverse effects on the health of persons to the extent~~
 6 ~~feasible. For purposes of this paragraph, the term 'feasible'~~
 7 ~~means feasible with the use of technology, treatment tech-~~
 8 ~~niques, and other means, which the Administrator finds are~~
 9 ~~generally available (taking cost into consideration).~~

10 ~~"(4) Revised national primary drinking water regula-~~
 11 ~~tions shall be amended whenever changes in technology,~~
 12 ~~treatment techniques and other means permit greater~~
 13 ~~protection of the health of persons, but in any event such~~
 14 ~~regulations shall be reviewed at least once every 5 years.~~

15 ~~"(5) Revised national primary drinking water regu-~~
 16 ~~lations promulgated under this subsection (and amendments~~
 17 ~~thereto) shall take effect not later than 1 year after the~~
 18 ~~date of their promulgation. Regulations under subsection~~
 19 ~~(a) shall be superseded by regulations under this subsection~~
 20 ~~to the extent provided by the regulations under this subsec-~~
 21 ~~tion.~~

22 ~~"(c) The Administrator shall publish proposed na-~~
 23 ~~tional secondary drinking water regulations within 270~~
 24 ~~days after the date of enactment of this title. Within 90 days~~
 25 ~~after publication of any such regulation, he shall promulgate~~

1 ~~such regulation with such modifications as he deems ap-~~
 2 ~~propriate. Regulations under this subsection may be amended~~
 3 ~~from time to time.~~

4 ~~"(d) Regulations under this section shall be prescribed~~
 5 ~~in accordance with section 553 of title 5, United States~~
 6 ~~Code (relating to rulemaking). In proposing and pro-~~
 7 ~~mulgating regulations under this section, the Administrator~~
 8 ~~shall consult with the Secretary and the Council.~~

9 ~~"(e) (1) The Administrator shall enter into appropriate~~
 10 ~~arrangements with the National Academy of Sciences (or~~
 11 ~~with another independent scientific organization, if appro-~~
 12 ~~priate arrangements cannot be made with such Academy)~~
 13 ~~to conduct a study to determine the maximum contaminant~~
 14 ~~levels which should be recommended under subsection (b)~~
 15 ~~(2) in order to protect the health of persons from any~~
 16 ~~known or anticipated adverse effects. In addition, such study~~
 17 ~~shall include findings respecting the existence of any contam-~~
 18 ~~inants the levels of which in drinking water cannot be deter-~~
 19 ~~mined but which may have an adverse effect on the health of~~
 20 ~~persons. The result of the study shall be reported to Con-~~
 21 ~~gress no later than two years after the date of enactment of~~
 22 ~~this title. The report shall contain (A) a summary and evalu-~~
 23 ~~ation of relevant publications and unpublished studies;~~
 24 ~~(B) a statement of methodologies and assumptions for esti-~~
 25 ~~mating the levels at which adverse health effects may occur;~~

1 ~~(C) a statement of methodologies and assumptions for~~
 2 ~~estimating the margin of safety which should be incorporated~~
 3 ~~in the national primary drinking water regulations; (D)~~
 4 ~~proposals for recommended maximum contaminant levels for~~
 5 ~~national primary drinking water regulations, based on the~~
 6 ~~methodologies, assumptions, and studies referred to in~~
 7 ~~clauses (A), (B), and (C) and in paragraph (3); and~~
 8 ~~(E) recommended studies and test protocols for future~~
 9 ~~research on the health effects of drinking water contami-~~
 10 ~~nants, including a list of the major research priorities and~~
 11 ~~estimated costs necessary to conduct such priority research.~~

12 ~~"(2) In developing its proposals for recommended maxi-~~
 13 ~~mum contaminant levels under paragraph (1) (D) the~~
 14 ~~National Academy of Sciences (or other organization pre-~~
 15 ~~paring the report) shall evaluate and explain (separately~~
 16 ~~and in composite) the impact of the following considerations:~~

17 ~~"(A) The existence of groups or individuals in~~
 18 ~~the population which are more susceptible to adverse~~
 19 ~~effects than the normal healthy adult.~~

20 ~~"(B) The exposure to contaminants in other~~
 21 ~~media than drinking water (including exposures in~~
 22 ~~food, in the ambient air, and in occupational settings)~~
 23 ~~and the resulting body burden of contaminants.~~

24 ~~(C) Synergistic effects resulting from exposure~~
 25 ~~to or interaction by two or more contaminants.~~

1 ~~"(D) The contaminant exposure and body bur-~~
 2 ~~den levels which alter physiological function or structure~~
 3 ~~in a manner reasonably suspected of increasing the risk~~
 4 ~~of illness.~~

5 ~~"(3) In making the study under this subsection, the~~
 6 ~~National Academy of Sciences (or other organization) shall~~
 7 ~~collect and correlate (A) morbidity and mortality data and~~
 8 ~~(B) monitored data on the quality of drinking water. Any~~
 9 ~~conclusions based on such correlation shall be included in~~
 10 ~~the report of the study.~~

11 ~~"(4) Neither the report of the study under this sub-~~
 12 ~~section nor any draft of such report shall be submitted to the~~
 13 ~~Office of Management and Budget or to any other Federal~~
 14 ~~agency (other than the Environmental Protection Agency)~~
 15 ~~prior to its submission to Congress.~~

16 ~~"(5) Of the funds authorized to be appropriated to the~~
 17 ~~Administrator by this title, such amounts as may be required~~
 18 ~~shall be available to carry out the study and to make the~~
 19 ~~report directed by paragraph (1) of this subsection.~~

20 ~~"STATE PRIMARY ENFORCEMENT RESPONSIBILITY~~

21 ~~SEC. 1413. (a) For purposes of this title, a State~~
 22 ~~has primary enforcement responsibility for public water~~
 23 ~~systems during any period for which the Administrator~~
 24 ~~determines (pursuant to regulations prescribed under sub-~~
 25 ~~section (b)) that such State~~

~~"(1) has adopted drinking water regulations which (A) during the period beginning on the date the national interim primary drinking water regulations are promulgated under section 1412 and ending on the date such regulations take effect are no less stringent than such regulations, and (B) after such effective date are no less stringent than the national primary drinking water regulations in effect under such section;~~

~~"(2) has adopted and is implementing adequate procedures for the enforcement of such State regulations including conducting such monitoring and making such inspections as the Administrator may require by regulation;~~

~~"(3) will keep such records and make such reports with respect to its activities under paragraphs (1) and (2) as the Administrator may require by regulation; and~~

~~"(4) if it permits variances and exemptions from the requirements of its primary drinking water regulations, permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416.~~

~~"(b) (1) The Administrator shall, by regulation (pro-~~

~~posed within 180 days of the date of the enactment of this title), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) are satisfied with respect to the State, the manner in which the determination is made, the period for which said determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify the rights of a State which is determined to have primary enforcement responsibility.~~

~~"(2) When an application is submitted in accordance with the Administrator's regulations under paragraph (1), the Administrator shall within 90 days of the date on which such application is submitted (A) make the determination applied for, or (B) determine that he is unable to make such determination and notify the applicant in writing of the reasons for his inability to make such determination.~~

~~1 "FAILURE BY STATE TO ASSURE ENFORCEMENT OF~~
~~2 DRINKING WATER REGULATIONS~~

~~3 "SEC. 1414. (a) (1) Whenever the Administrator finds~~
~~4 during a period during which a State has primary enforce-~~
~~5 ment responsibility for public water systems (within the~~
~~6 meaning of section 1413 (a)) that any public water system~~
~~7 in such State does not comply with any national primary~~
~~8 drinking water regulation in effect under section 1412, he~~
~~9 shall so notify the State. If the Administrator finds such~~
~~10 failure to comply extends beyond the thirteenth day after such~~
~~11 notice, he shall give public notice of such finding, and he may~~
~~12 (A) commence a civil action under subsection (b) (1), or~~
~~13 (B) issue an order requiring any person subject to any~~
~~14 provision of such regulation to comply with such provision.~~

~~15 "(2) Whenever, on the basis of information available~~
~~16 to him, the Administrator finds during a period during~~
~~17 which a State does not have primary enforcement respon-~~
~~18 sibility for public water systems that a public water system~~
~~19 in such State does not comply with any national primary~~
~~20 drinking water regulation, he may (A) commence a civil~~
~~21 action under subsection (b) (1), or (B) issue an order~~
~~22 requiring any person subject to any provision of such regu-~~
~~23 lation to comply with such provision.~~

~~24 "(b) (1) The Administrator may bring a civil action~~

~~1 under this paragraph in the appropriate United States~~
~~2 district court—~~

~~3 "(A) to require compliance with an order issued~~
~~4 under subsection (a), or~~

~~5 "(B) when authorized by subsection (a), to re-~~
~~6 quire compliance with a national primary drinking water~~
~~7 regulation.~~

~~8 The court may enter such judgment as protection of public~~
~~9 health may require, taking into consideration the time neces-~~
~~10 sary to comply and the availability of alternative water~~
~~11 supplies.~~

~~12 "(2) Any person who willfully violates or fails or re-~~
~~13 fuses to comply with any order issued by the Administrator~~
~~14 under subsection (a), shall be punished by a fine of not~~
~~15 more than \$5,000 per day.~~

~~16 "(c) Each owner or operator of a public water system~~
~~17 shall give notice to the persons served by it—~~

~~18 "(1) of any failure on the part of the public water~~
~~19 system to—~~

~~20 "(A) comply with an applicable maximum~~
~~21 contaminant level or treatment technique require-~~
~~22 ment of, or a testing procedure prescribed by, a~~
~~23 national primary drinking water regulation, or~~

~~24 "(B) perform monitoring required by section~~
~~25 1435 (a), and~~

~~“(2) if the public water system is subject to a variance or exemption granted under section 1415 or 1416, of—~~

~~“(A) the existence of such variance or exemption, and~~

~~“(B) any failure to comply with the requirements of any schedule or control measure prescribed pursuant to the variance or exemption.~~

~~The Administrator shall by regulation prescribe the form and manner for giving such notice. Such notice shall be given not less than once every 3 months and shall be furnished to the communications media serving the area served by each such water system (as determined by the Administrator). If the water bills of a public water system are issued more often than once every 3 months, such notice shall be included in at least one water bill of the system every 3 months, and if a public water system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system. Any person who willfully violates this subsection or regulations thereunder shall be fined not more than \$5,000.~~

~~“(d) Whenever, on the basis of information available to him, the Administrator finds that within a reasonable time after national secondary drinking water regulations have been prescribed, one or more public water systems in a State~~

~~do not comply with such secondary regulations, and that such noncompliance appears to result from a failure of such State to take reasonable action to assure that public water systems throughout such State meet such secondary regulations, he shall so notify the State and request the State to take appropriate remedial action. If the Administrator determines that such State has not taken such remedial action and is not likely to do so within a reasonable time, he shall publish such determination in the Federal Register.~~

~~“(e) Nothing in this title shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting drinking water regulations or public water systems (but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title).~~

~~“VARIANCES~~

~~“SEC. 1415. (a) Notwithstanding any other provision of this part:~~

~~“(1) (A) A State which has primary enforcement responsibility for public water systems may grant one or more variances from an applicable national primary drinking water regulation to one or more public water systems within its jurisdiction which, because of characteristics of the raw water sources which are reasonably available to the systems, cannot meet the requirements~~

~~respecting the maximum contaminant levels of such drinking water regulation (or an amendment thereto) despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.~~

~~“(B) A State which has primary enforcement responsibility for public water systems may grant a variance from any provision of a drinking water regulation which requires the use of specified treatment technique with respect to a contaminant upon a showing by a public water system that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.~~

~~“(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the~~

~~granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance, has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—~~

~~“(I) identify each public water system with respect to which the finding was made,~~

~~“(II) specify the reasons for the finding, and~~

~~“(III) as appropriate, propose revocations of specific variances or propose revised control measures or other requirements for specific public water systems granted variances, or both.~~

~~“(ii) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to clause (i) of this subparagraph. After a hearing on a notice pursuant to such clause, the Administrator shall (I) rescind the finding for which the~~

~~notice was given and promptly notify the State of such rescission, or (II) promulgate (with such modifications as he deems appropriate) such variance revocations and revised variance control measures or other requirements proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to clause (i) of this subparagraph, the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence. If a State is notified under clause (i) of this subparagraph of a finding of the Administrator made with respect to a variance granted a public water system within that State or to a control measure or other requirement for a variance and if before a revocation of such variance or a revision of such control measure or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or control measure or other requirement which the Administrator determines makes his finding inapplicable to such variance or control measure or other requirement, the Administrator shall rescind the application of his finding to that variance or control measure or other requirement. No variance revocation or revised control measure or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revoca-~~

~~tion or revised control measure or other requirement was proposed.~~

~~“(2) If a State does not have primary enforcement responsibility, for public water systems, the Administrator shall have the same authority (A) to grant variances in such State as the State would have under paragraph (1) if it had primary enforcement responsibility, and (B) to exempt public water systems in such State from maximum contaminant level requirements and required treatment techniques under the same conditions and in the same manner as the State would be authorized to grant exemptions under section 1416 if it had primary enforcement responsibility.~~

~~(3) The Administrator may grant a variance from any treatment technique requirement of a national primary drinking water regulation upon a showing by any person that an alternative treatment technique not included in such requirement is at least as efficient in lowering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.~~

~~“(b) Any control measure or other requirement on which a variance granted under this section is conditioned,~~

~~1 may be enforced under section 1414 as if such control
2 measure was part of a national primary drinking water
3 regulation.~~

~~4 “(e) For purposes of this section, the term ‘treatment
5 technique requirement’ means a requirement in a national
6 primary drinking water regulation which specifies for a
7 contaminant (in accordance with section 1401 (1) (C) (ii))
8 each treatment technique known to the Administrator which
9 leads to a reduction in the level of such contaminant suf-
10 ficient to satisfy the requirements of section 1412 (b) (3).~~

~~11 “EXEMPTIONS~~

~~12 “SEC. 1416. (a) A State which has primary enforce-
13 ment responsibility may exempt any public water system
14 within the State’s jurisdiction from any requirement re-
15 specting a maximum contaminant level or any treatment
16 technique requirement, or from both, of an applicable na-
17 tional primary drinking water regulation upon a finding that
18 (1) due to compelling factors (which may include economic
19 factors), the public water system is unable to comply with
20 such contaminant level or treatment technique requirement,
21 and (2) the public water system was in operation on the
22 effective date of such regulation.~~

~~23 “(b) (1) If a State grants a public water system an ex-
24emption under subsection (a), it shall prescribe within one
25 year of the date the exemption is granted a schedule for (A)~~

~~1 compliance (including increments of progress) by the public
2 water system with each contaminant level requirement and
3 treatment technique requirement with respect to which the
4 exemption was granted, and (B) implementation by the
5 public water system of such control measures as the State may
6 require for each contaminant, subject to such contaminant
7 level requirement or treatment technique requirement, during
8 the period ending on the date compliance with such require-
9 ment is required. Before a schedule prescribed by a State
10 pursuant to this subsection may take effect, the State shall
11 provide notice and opportunity for a public hearing on the
12 schedule. A notice given pursuant to the preceding sentence
13 may cover the prescribing of more than one such schedule
14 and a hearing held pursuant to such notice shall include each
15 of the schedules covered by the notice.~~

~~16 “(2) (A) A schedule prescribed pursuant to this sub-
17 section for a public water system granted an exemption under
18 subsection (a) shall require compliance by the system with
19 each contaminant level and treatment technique require-
20 ment with respect to which the exemption was granted as
21 expeditiously as practicable (as the State may reasonably
22 determine) but (except as provided in subparagraph
23 (B))—~~

~~24 “(i) in the case of an exemption granted with
25 respect to a contaminant level or treatment technique~~

~~requirement prescribed by the interim national primary drinking water regulations promulgated under section 1412 (a), not later than January 1, 1981; and~~

~~“(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the revised national primary drinking water regulations (or any amendments thereto), not later than seven years after the date such requirement takes effect.~~

~~“(B) Notwithstanding clauses (i) and (ii) of subparagraph (A) of this paragraph, the final date for compliance prescribed in a schedule prescribed pursuant to this subsection for an exemption granted for a public water system which (as determined by the State granting the exemption) has entered into an enforceable agreement to become a part of a regional public water system shall—~~

~~“(i) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the interim national primary drinking water regulations, be not later than January 1, 1983; and~~

~~“(ii) in the case of a schedule prescribed for an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by the revised national primary drinking water regulations (or~~

~~any amendment thereto), be not later than nine years after such requirement takes effect.~~

~~“(3) Each public water system's exemption granted by a State under subsection (a) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to this subsection. The requirements of each schedule prescribed by a State pursuant to this subsection shall be enforceable by the State under its laws. Any requirement of a schedule on which an exemption granted under this section is conditioned may be enforced under section 1414 as if such requirement was part of a national primary drinking water regulation.~~

~~“(4) Each schedule prescribed by a State pursuant to this subsection shall be deemed approved by the Administrator unless the exemption for which it was prescribed is revoked by the Administrator under subsection (d) (2) or the schedule is revised by the Administrator under such subsection.~~

~~“(e) Each State which grants an exemption under subsection (a) shall promptly notify the Administrator of the granting of such exemption. Such notification shall contain the reasons for the exemption and document the need for the exemption.~~

~~“(d) (1) Not later than 18 months after the effective date of the interim national primary drinking water regula-~~

~~tions the Administrator shall complete a comprehensive review of the exemptions granted (and schedules prescribed pursuant thereto) by the States from the date of the enactment of this title until one year after 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.~~

~~"(2) (A) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting exemptions under subsection (a) or failed to prescribe schedules in accordance with subsection (b), the Administrator shall notify the State of his finding. Such notice shall—~~

~~"(i) identify each exempt public water system with respect to which the finding was made,~~

~~"(ii) specify the reasons for the finding, and~~

~~"(iii) as appropriate, propose revocations of specific exemptions or propose revised schedules for specific exempt public water systems, or both.~~

~~"(B) The Administrator shall provide reasonable notice and public hearing on the provisions of each notice given pursuant to subparagraph (A). After a hearing on a notice pursuant to subparagraph (A), the Administrator shall (i) rescind the finding for which the notice was given and promptly notify the State of such rescission, or (ii) pro-~~

~~mulgate (with such modifications as he deems appropriate) such exemption revocations and revised schedules proposed in such notice as he deems appropriate. Not later than 180 days after the date a notice is given pursuant to subparagraph (A), the Administrator shall complete the hearing on the notice and take the action required by the preceding sentence. If a State is notified under subparagraph (A) of a finding of the Administrator made with respect to an exemption granted a public water system within that State or to a schedule prescribed pursuant to such an exemption and if before a revocation of such exemption or a revision of such schedule promulgated by the Administrator takes effect the State takes corrective action with respect to such exemption or schedule which the Administrator determines makes his finding inapplicable to such exemption or schedule, the Administrator shall rescind the application of his finding to that exemption or schedule. No exemption revocation or revised schedule may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule was proposed.~~

~~"(c) For purposes of this section, the term 'treatment technique requirement' means a requirement in a national primary drinking water regulation which specifies for a contaminant (in accordance with section 1401 (1) (C) (ii)) each treatment technique known to the Administrator which~~

1 ~~leads to a reduction in the level of such contaminant suffi-~~
 2 ~~cient to satisfy the requirements of section 1412 (b) (3).~~

3 ~~"PART C—PROTECTION OF UNDERGROUND SOURCES OF~~
 4 ~~DRINKING WATER—~~

5 ~~"REGULATIONS FOR STATE PROGRAMS—~~

6 ~~"SEC. 1421. (a) (1) The Administrator shall pub-~~
 7 ~~lish proposed regulations for State underground injection~~
 8 ~~control programs within 180 days after the date of enact-~~
 9 ~~ment of this title. Within 180 days after publication of such~~
 10 ~~proposed regulations, he shall promulgate such regulations~~
 11 ~~with such modifications as he deems appropriate. Any regula-~~
 12 ~~tion under this subsection may be amended from time to time.~~

13 ~~"(2) Any regulation under this section shall be pre-~~
 14 ~~scribed in accordance with section 553 of title 5, United~~
 15 ~~States Code (relating to rulemaking). In proposing and~~
 16 ~~promulgating regulations under this section, the Adminis-~~
 17 ~~trator shall consult with the Secretary and the Council.~~

18 ~~"(b) Regulations for State underground injection pro-~~
 19 ~~grams shall contain minimum requirements for effective pro-~~
 20 ~~grams to prevent underground injection which endangers~~
 21 ~~drinking water sources within the meaning of subsection~~
 22 ~~(d) (2). Such regulations shall require that a State pro-~~
 23 ~~gram, in order to be approved under section 1422—~~

24 ~~"(1) shall prohibit, effective three years after the~~
 25 ~~enactment of this title, any underground injection in~~

1 ~~such State which is not authorized by a permit issued by~~
 2 ~~the State (except that the Administrator's regulations~~
 3 ~~may permit a State to authorize underground injection~~
 4 ~~by rule);~~

5 ~~"(2) shall require, in the case of a program which~~
 6 ~~provides for authorization of underground injection by~~
 7 ~~permit, that the applicant for the permit to inject must~~
 8 ~~satisfy the State that the underground injection will not~~
 9 ~~endanger drinking water sources;~~

10 ~~"(3) may not by rule authorize any underground~~
 11 ~~injection which endangers underground water sources;~~

12 ~~"(4) shall include inspection, monitoring, record-~~
 13 ~~keeping, and reporting requirements; and~~

14 ~~"(5) shall apply, as prescribed by section 1438~~
 15 ~~(b), to underground injections by Federal agencies and~~
 16 ~~shall apply to underground injections by any other per-~~
 17 ~~son whether or not occurring on property owned or~~
 18 ~~leased by the United States.~~

19 ~~"(c) (1) The Administrator may, upon application of~~
 20 ~~the Governor of a State which authorizes underground injec-~~
 21 ~~tion by means of permits, authorize such State to issue (with-~~
 22 ~~out regard to subsection (b) (2)) temporary permits for~~
 23 ~~underground injection which may be effective until the~~
 24 ~~expiration of four years after the date of enactment of this~~
 25 ~~title, if—~~

1 ~~"(A) the Administrator finds that the State has~~
 2 ~~demonstrated that it is unable and could not reasonably~~
 3 ~~have been able to process all permit applications within~~
 4 ~~the time available;~~

5 ~~"(B) the Administrator determines the adverse~~
 6 ~~effect on the environment of such temporary permits is~~
 7 ~~not unwarranted;~~

8 ~~"(C) such temporary permits will be issued only~~
 9 ~~with respect to injection wells in operation on the date~~
 10 ~~on which such State's permit program approved under~~
 11 ~~this part first takes effect and for which there was in-~~
 12 ~~adequate time to process its permit application; and~~

13 ~~"(D) the Administrator determines the temporary~~
 14 ~~permits require the use of minimally adequate safeguards~~
 15 ~~established by rules adopted by him.~~

16 ~~"(2) The Administrator may, upon application of the~~
 17 ~~Governor of a State which authorizes underground injection~~
 18 ~~by means of permits, authorize such State to issue (without~~
 19 ~~regard to subsection (b) (2)), but after reasonable notice~~
 20 ~~and public hearing one or more temporary permits each of~~
 21 ~~which is applicable to a particular injection well and which~~
 22 ~~may be effective until the expiration of four years after the~~
 23 ~~date of enactment of this title, if the State has found, on the~~
 24 ~~record of such hearing—~~

1 ~~"(A) that technology (or other means) to permit~~
 2 ~~safe injection of the fluid in accordance with the appli-~~
 3 ~~cable underground injection control program is not gen-~~
 4 ~~erally available (taking costs into consideration);~~

5 ~~"(B) that injection of the fluid would be less~~
 6 ~~harmful to health than the use of other available means~~
 7 ~~of disposing of waste or producing the desired product;~~
 8 ~~and~~

9 ~~"(C) that available technology or other means~~
 10 ~~have been employed (and will be employed) to reduce~~
 11 ~~the volume and toxicity of the fluid and to minimize the~~
 12 ~~potentially adverse effect of the injection on the public~~
 13 ~~health.~~

14 ~~"(d) For purposes of this part:~~

15 ~~"(1) The term 'underground injection' means the~~
 16 ~~subsurface emplacement of fluids by well injection.~~

17 ~~"(2) Underground injection endangers drinking~~
 18 ~~water sources if such injection may result in the presence~~
 19 ~~in underground water which supplies or can reasonably~~
 20 ~~be expected to supply any public water system of any~~
 21 ~~contaminant, and if the presence of such contaminant~~
 22 ~~may result in such system's not complying with any~~
 23 ~~national primary drinking water regulation or may~~
 24 ~~otherwise adversely affect the health of persons.~~

1 ~~"STATE PRIMARY ENFORCEMENT RESPONSIBILITY~~

2 ~~"SEC. 1422. (a) Within 180 days after the date of~~
 3 ~~enactment of this title, the Administrator shall list in the~~
 4 ~~Federal Register each State for which in his judgment a~~
 5 ~~State underground injection control program may be nec-~~
 6 ~~essary to assure that underground injection will not endanger~~
 7 ~~drinking water sources. Such list may be amended from time~~
 8 ~~to time.~~

9 ~~"(b) (1) Each State listed under subsection (a) shall~~
 10 ~~within 270 days after the date of promulgation of any regu-~~
 11 ~~lation (and of each amendment thereof) under section 1421~~
 12 ~~(or, if later, within 270 days after such State is first listed~~
 13 ~~under subsection (a)) submit to the Administrator an~~
 14 ~~application which contains a showing that the State—~~

15 ~~(A) has adopted after reasonable notice and public~~
 16 ~~hearings, and will implement, an underground injection~~
 17 ~~control program which meets the requirements of regu-~~
 18 ~~lations in effect under section 1421; and~~

19 ~~(B) will keep such records and make such reports~~
 20 ~~with respect to its activities under clause (i) as the~~
 21 ~~Administrator may require by regulation.~~

22 ~~"(2) Within ninety days after the State's application~~
 23 ~~under paragraph (1) and after reasonable opportunity for~~
 24 ~~presentation of views, the Administrator shall by rule either~~

1 ~~approve, disapprove, or approve in part and disapprove in~~
 2 ~~part, the State's program.~~

3 ~~"(3) If the Administrator approves the State's program~~
 4 ~~under paragraph (2), the State shall have primary enforce-~~
 5 ~~ment responsibility for underground water sources until such~~
 6 ~~time as the Administrator determines, by rule, that such~~
 7 ~~State no longer meets the requirements of clauses (i) and~~
 8 ~~(ii) of paragraph (1) (A) of this subsection.~~

9 ~~"(c) If the Administrator disapproves a State's pro-~~
 10 ~~gram (or part thereof) under subsection (b) (3) or if a~~
 11 ~~State fails to submit an application before the date of expira-~~
 12 ~~tion of the period specified in subsection (b) (1), the Ad-~~
 13 ~~ministrator shall by regulation within 90 days after such~~
 14 ~~disapproval or expiration date (as the case may be) pre-~~
 15 ~~scribe (and may from time to time by regulation revise) a~~
 16 ~~program applicable to such State meeting the requirements~~
 17 ~~of such regulations. Such program shall apply in such State~~
 18 ~~to the extent that a program adopted by such State which~~
 19 ~~the Administrator determines meets such requirements is not~~
 20 ~~in effect.~~

21 ~~"(d) For purposes of this title, the term 'applicable~~
 22 ~~underground injection control program' with respect to a~~
 23 ~~State means the program (or most recent amendment~~
 24 ~~thereof) (1) which has been adopted by the State and~~
 25 ~~which has been approved under subsection (b), or (2)~~

1 ~~which has been prescribed by the Administrator under~~
2 ~~subsection (c).~~

3 ~~"FAILURE OF STATE TO ASSURE ENFORCEMENT OF~~
4 ~~PROGRAM~~

5 ~~"SEC. 1423. (a) Whenever the Administrator finds~~
6 ~~during a period during which a State has primary enforce-~~
7 ~~ment responsibility for underground water sources (within~~
8 ~~the meaning of section 1422 (b) (3)) that any person who is~~
9 ~~subject to a requirement of an applicable underground inje-~~
10 ~~ction control program in such State is violating such require-~~
11 ~~ment, he shall so notify the State and the person violating~~
12 ~~such requirement. If the Administrator finds such violation~~
13 ~~extends beyond the thirtieth day after such notice, he shall~~
14 ~~give public notice of such finding, and he may (A) com-~~
15 ~~mence a civil action under subsection (b) (1) or (B) issue~~
16 ~~an order requiring the person who is violating such require-~~
17 ~~ment to comply with the requirement.~~

18 ~~"(3) Whenever the Administrator finds during a period~~
19 ~~during which a State does not have primary enforcement~~
20 ~~responsibility for underground water sources that any person~~
21 ~~subject to any requirement of any applicable underground~~
22 ~~injection control program in such State is violating such~~
23 ~~requirement, he may (A) commence a civil action under~~
24 ~~subsection (b) (1) or (B) issue an order requiring the~~

1 ~~person violating such requirement of such program to com-~~
2 ~~ply with such requirement.~~

3 ~~"(b) (1) The Administrator may bring a civil action~~
4 ~~under this paragraph in the appropriate United States dis-~~
5 ~~trict court (A) to require compliance with an order issued~~
6 ~~under subsection (a), or (b) when authorized by subsection~~
7 ~~(a) to require compliance with any requirement of an appli-~~
8 ~~cable underground injection control program.~~

9 ~~"(2) Any person who—~~

10 ~~"(A) violates any requirement of an applicable~~
11 ~~underground injection control program to which he is~~
12 ~~subject (i) during any period for which the State does~~
13 ~~not have primary enforcement responsibility for under-~~
14 ~~ground water sources, or (ii) more than thirty days~~
15 ~~after having been notified by the Administrator under~~
16 ~~subsection (a) (2) that such person is violating such~~
17 ~~requirement, or~~

18 ~~"(B) violates or fails or refuses to comply with any~~
19 ~~order issued by the Administrator under subsection (a),~~
20 ~~shall be subject to a civil penalty of not more than \$5,000~~
21 ~~per day. In addition, if such violation or failure to comply~~
22 ~~is willful, such person shall be punished by a fine of not~~
23 ~~more than \$5,000 per day.~~

24 ~~"(c) Nothing in this title shall diminish any authority~~
25 ~~of a State or political subdivision to adopt or enforce any~~

~~1 law or regulation respecting underground injection (but no~~
~~2 such law or regulation shall relieve any person of any re-~~
~~3 quirement otherwise applicable under this title).~~

~~4 "INTERIM REGULATION OF UNDERGROUND INJECTIONS~~

~~5 "SEC. 1424. (a) (1) Any person may petition the~~
~~6 Administrator to have an area of a State (or States) desig-~~
~~7 nated as an area in which no new underground injection~~
~~8 well may be operated during the period beginning on the~~
~~9 date of the designation and ending on the date on which~~
~~10 the applicable underground injection control program cov-~~
~~11 ering such area takes effect unless a permit for the operation~~
~~12 of such well has been issued by the Administrator under~~
~~13 subsection (b). The Administrator may so designate an~~
~~14 area within a State if he finds that the area has one acqui-~~
~~15 fer which is the sole or principal drinking water source for~~
~~16 the area and which, if contaminated, would create a signif-~~
~~17 icant hazard to public health.~~

~~18 "(2) Upon receipt of a petition under paragraph (1)~~
~~19 of this subsection, the Administrator shall publish it in the~~
~~20 Federal Register and shall provide an opportunity to in-~~
~~21 terested persons to submit written data, views, or arguments~~
~~22 thereon. Not later than the 30th day following the date of~~
~~23 the publication of a petition under this paragraph in the~~
~~24 Federal Register, the Administrator shall either make the~~

~~1 designation for which the petition is submitted or deny the~~
~~2 petition.~~

~~3 "(b) (1) During the period beginning on the date an~~
~~4 area is designated under subsection (a) and ending on the~~
~~5 date the applicable underground injection control program~~
~~6 covering such area takes effect, no new underground inje-~~
~~7 tion well may be operated in such area unless the Adminis-~~
~~8 trator has issued a permit for such operation.~~

~~9 "(2) Any person may petition the Administrator for the~~
~~10 issuance of a permit for the operation of such a well in such~~
~~11 an area. A petition submitted under this paragraph shall be~~
~~12 submitted in such manner and contain such information as~~
~~13 the Administrator may require by regulation. Upon receipt~~
~~14 of such a petition, the Administrator shall publish it in the~~
~~15 Federal Register. The Administrator shall act upon such~~
~~16 petition in accordance with section 558 of title 5 of the~~
~~17 United States Code. Within 120 days of the publication in~~
~~18 the Federal Register of a petition submitted under this para-~~
~~19 graph, the Administrator shall either issue the permit for~~
~~20 which the petition was submitted or shall deny its issuance.~~

~~21 "(3) The Administrator may issue a permit for the~~
~~22 operation of a new underground injection well in an area~~
~~23 designated under subsection (a) only if he finds that the~~
~~24 operation of such well will not cause contamination of the~~

~~1 aquifer of such area so as to create a significant hazard to~~
~~2 public health. The Administrator may condition the issuance~~
~~3 of such a permit upon the use of such control measures in~~
~~4 connection with the operation of such well, for which the~~
~~5 permit is to be issued, as he deems necessary to assure that~~
~~6 the operation of the well will not contaminate the aquifer~~
~~7 of the designated area in which the well is located so as to~~
~~8 create a significant hazard to public health.~~

~~9 "(c) Any person who operates a new underground in-~~
~~10 jection well in violation of subsection (b) shall be subject~~
~~11 to a civil penalty of not more than \$5,000 for each day in~~
~~12 which such violation occurs. In addition, if such violation is~~
~~13 willful, such person shall be punished by a fine of not more~~
~~14 than \$5,000 for each day in which such violation occurs.~~
~~15 If the Administrator has reason to believe that any person~~
~~16 is violating or will violate subsection (b), he may petition~~
~~17 the United States district court to issue a temporary restrain-~~
~~18 ing order or injunction (including a mandatory injunction)~~
~~19 to enforce such subsection.~~

~~20 "(d) For purposes of this section, the term 'new~~
~~21 underground injection well' means an underground injection~~
~~22 well whose operation was not approved by appropriate~~
~~23 State and Federal agencies before the date of the enactment~~
~~24 of this title.~~

~~"PART D GENERAL PROVISIONS"~~

~~"EMERGENCY POWERS"~~

~~3 "SEC. 1431. (a) Notwithstanding any other pro-~~
~~4 vision of this title, the Administrator, upon receipt of informa-~~
~~5 tion that a contaminant which is present in or is likely to~~
~~6 enter a public water system may present an imminent and~~
~~7 substantial endangerment to the health of persons, and that~~
~~8 appropriate State or local authorities have not acted to protect~~
~~9 the health of such persons, may take such actions as he may~~
~~10 deem necessary in order to protect the health of such persons.~~
~~11 Such action may include (but shall not be limited to) (1)~~
~~12 issuing such orders as may be necessary to protect the health~~
~~13 of persons who are or may be users of such system (including~~
~~14 travelers), and (2) commencing a civil action for appro-~~
~~15 priate relief, including a restraining order or permanent or~~
~~16 temporary injunction.~~

~~17 "(b) Any person who willfully violates or fails or~~
~~18 refuses to comply with any order issued by the Administrator~~
~~19 under subsection (a) (1) shall be punished by a fine of not~~
~~20 more than \$5,000 per day of violation.~~

~~"ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES~~ ~~22 OF CHEMICALS NECESSARY FOR TREATMENT OF WATER"~~

~~23 "SEC. 1432. (a) If any person who uses chlorine, acti-~~
~~24 vated carbon, lime, ammonia, soda ash, potassium perman-~~
~~25 ganate, caustic soda, or other chemical or substance for the~~

~~1 purpose of treating water in any public water system or in
2 any public treatment works determines that the amount of
3 such chemical or substance necessary to effectively treat
4 such water is not reasonably available to him or will not
5 be so available to him when required for the effective treat-
6 ment of such water, such person may apply to the Admin-
7 istrator for a certification (hereinafter in this section referred
8 to as a 'certification of need') that the amount of such
9 chemical or substance which such person requires to effec-
10 tively treat such water is not reasonably available to him
11 or will not be so available when required for the effective
12 treatment of such water.~~

~~13 "(b) (1) An application for a certification of need shall
14 be in such form and submitted in such manner as the
15 Administrator may require and shall (A) specify the per-
16 sons the applicant determines are able to provide the chemi-
17 cal or substance with respect to which the application is
18 submitted, (B) specify the persons from whom the appli-
19 cant has sought such chemical or substance, and (C) con-
20 tain such other information as the Administrator may
21 require.~~

~~22 "(2) Upon receipt of an application under this section,
23 the Administrator shall (A) publish in the Federal Register
24 a notice of the receipt of the application and a brief sum-
25 mary of it, (B) notify in writing each person whom the~~

~~1 President or his delegate (after consultation with the Admin-
2 istrator) determines could be made subject to an order
3 required to be issued upon the issuance of the certification
4 of need applied for in such application, and (C) provide an
5 opportunity for the submission of written comments on such
6 application. The requirements of the preceding sentence of
7 this paragraph shall not apply when the Administrator for
8 good cause finds (and incorporates the finding in a brief
9 statement of reasons therefor in the order issued) that waiver
10 of such requirements is necessary in order to protect the
11 public health.~~

~~12 "(3) Within 30 days after—~~

~~13 "(A) the date a notice is published under paragraph
14 (2) in the Federal Register with respect to an applica-
15 tion submitted under this section for the issuance of a
16 certification of need, or~~

~~17 "(B) the date on which such application is received
18 if as authorized by the second sentence of such para-
19 graph no notice is published with respect to such appli-
20 cation,~~

~~21 the Administrator shall take action either to issue or deny
22 the issuance of a certification of need.~~

~~23 "(c) (1) If the Administrator finds that the amount of
24 a chemical or substance necessary for an applicant under
25 an application submitted under this section to effectively~~

~~1 treat water in a public water system or in a public treatment
2 works is not reasonably available to the applicant or will
3 not be so available to him when required for the effective
4 treatment of such water, the Administrator shall issue a
5 certification of need. Not later than seven days following
6 the issuance of such certification, the President or his dele-
7 gate shall issue an order requiring the provision to such
8 person of such amounts of such chemical or substance as the
9 Administrator deems necessary in the certification of need
10 issued for such person. Such order shall apply to such manu-
11 facturers, producers, processors, distributors, and repack-
12 agers of such chemical or substance as the President or his
13 delegate deems necessary and appropriate, except that such
14 order may not apply to any manufacturer, producer, or proe-
15 cessor of such chemical or substance who manufactures, pro-
16 duces, or processes (as the case may be) such chemical or
17 substance solely for its own use. Persons subject to an order
18 issued under this section shall be given a reasonable oppor-
19 tunity to consult with the President or his delegate with
20 respect to the implementation of the order.~~

~~21 "(2) Orders which are to be issued under paragraph
22 (1) to manufacturers, producers, and processors of a chemi-
23 cal or substance shall be equitably apportioned, as far as
24 practicable, among all manufacturers, producers, and proe-
25 cessors of such chemical or substance; and orders which are~~

~~1 to be issued under paragraph (1) to distributors and re-
2 packagers of a chemical or substance shall be equitably ap-
3 portioned, as far as practicable, among all distributors and
4 repackagers of such chemical or substance.~~

~~5 "(3) Subject to subsection (f), any person for whom
6 a certification of need has been issued under this subsection
7 may upon the expiration of the order issued under para-
8 graph (1) upon such certification apply under this section
9 for additional certifications.~~

~~10 "(d) There shall be available as a defense to any action
11 brought for breach of contract in a Federal or State court
12 arising out of delay or failure to provide, sell, or offer for
13 sale or exchange a chemical or substance subject to an order
14 issued pursuant to subsection (c) (1), that such delay or
15 failure was caused solely by compliance with such order.~~

~~16 "(e) (1) Whoever knowingly fails to comply with any
17 order issued pursuant to subsection (c) (1) shall be fined not
18 more than \$5,000 for each such failure to comply.~~

~~19 "(2) Whoever fails to comply with any order issued
20 pursuant to subsection (c) (1) shall be subject to a civil
21 penalty of not more than \$2,500 for each such failure to
22 comply.~~

~~23 "(3) Whenever the Administrator or the President or
24 his delegate has reason to believe that any person is violating
25 or will violate any order issued pursuant to subsection (c)~~

~~(1), he may petition a United States district court to issue a temporary restraining order or injunction (including a mandatory injunction) to enforce the provisions of such order.~~

~~"(f) No certification of need or order issued under this section may remain in effect—~~

~~"(1) for more than one year, or~~

~~"(2) after June 30, 1976,~~

~~whichever occurs first.~~

~~"RESEARCH, TECHNICAL ASSISTANCE, INFORMATION~~

~~TRAINING OF PERSONNEL~~

~~"SEC. 1433. (a) (1) The Administrator may conduct research, studies, and demonstrations, and render financial, technical, and other assistance to any person in the establishment and administration of a program of surveillance, monitoring, evaluation, and enforcement of a public water supply program, and in the conduct of research and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments of man resulting directly or indirectly from contaminants in water, or to the provision of dependably safe supply of drinking water, including—~~

~~"(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may be used by State and local~~

~~health and water officials), and (ii) to identify the source of such contaminants;~~

~~"(B) improved methods to identify and measure the health effects of contaminants in drinking water;~~

~~"(C) new methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove contaminants from the water;~~

~~"(D) improved methods for providing a dependably safe supply of drinking water including improvements in water purification and distribution, and methods of assessing the health related hazards of drinking water supplies; and~~

~~"(E) improved methods of protecting underground water sources of public water systems from contamination.~~

~~"(2) The Administrator shall conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 1412.~~

~~"(3) The Administrator shall conduct a survey and study of—~~

~~"(A) disposal of waste (including residential waste) which may endanger underground water which supplies, or can reasonably be expected to supply, any public water system, and~~

1 ~~"(B) means of control of such waste disposal:~~
2 ~~Not later than one year after the date of enactment of this~~
3 ~~title, he shall transmit to the Congress the results of such~~
4 ~~survey and study, together with such recommendations as~~
5 ~~he deems appropriate.~~

6 ~~"(4) The Administrator shall carry out a study of~~
7 ~~methods of underground injection which do not result in the~~
8 ~~degradation of underground drinking water sources.~~

9 ~~"(5) The Administrator shall carry out a study of~~
10 ~~methods of preventing, detecting, and dealing with surface~~
11 ~~spills of contaminants which may degrade underground water~~
12 ~~sources for public water systems.~~

13 ~~"(6) The Administrator shall carry out a study of virus~~
14 ~~contamination of drinking water sources and means of con-~~
15 ~~trol of such contamination.~~

16 ~~"(7) The Administrator shall carry out a study of the~~
17 ~~nature and extent of the impact on underground water which~~
18 ~~supplies or can reasonably be expected to supply public~~
19 ~~water systems of (A) abandoned injection or extraction~~
20 ~~wells; (B) intensive application of pesticides and fertilizers~~
21 ~~in underground water recharge areas; and (C) ponds, pools,~~
22 ~~lagoons, pits, or other surface disposal of contaminants in~~
23 ~~underground water recharge areas.~~

24 ~~"(b) In carrying out this title, the Administrator is~~
25 ~~authorized to—~~

1 ~~"(1) collect and make available information per-~~
2 ~~taining to research, investigations, and demonstrations~~
3 ~~with respect to providing a dependably safe supply of~~
4 ~~drinking water together with appropriate recommenda-~~
5 ~~tions in connection therewith;~~

6 ~~"(2) make available research facilities of the~~
7 ~~Agency to appropriate public authorities, institutions,~~
8 ~~and individuals engaged in studies and research relat-~~
9 ~~ing to the purposes of this title;~~

10 ~~"(3) make grants to, and enter into contracts with,~~
11 ~~any public agency, educational institution, and any other~~
12 ~~organization, in accordance with procedures prescribed~~
13 ~~by the Administrator, under which he may pay all or~~
14 ~~a part of the costs (as may be determined by the Admin-~~
15 ~~istrator) of any project or activity which is designed—~~

16 ~~"(A) to develop, expand, or carry out a pro-~~
17 ~~gram (which may combine training education and~~
18 ~~employment) for training persons for occupations~~
19 ~~involving the public health aspects of providing safe~~
20 ~~drinking water;~~

21 ~~"(B) to train inspectors and supervisory per-~~
22 ~~sonnel to train or supervise persons in occupations~~
23 ~~involving the public health aspects of providing safe~~
24 ~~drinking water; or~~

1 ~~“(C) to develop and expand the capability of~~
 2 ~~programs of States and municipalities to carry out~~
 3 ~~the purposes of this title (other than by carrying~~
 4 ~~out State drinking water safety programs as defined~~
 5 ~~in section 1434 (d) (1)).~~

6 ~~“(c) There are authorized to be appropriated to carry~~
 7 ~~out the provisions of this section \$15,000,000 for the fiscal~~
 8 ~~year ending June 30, 1974; \$25,000,000 for the fiscal year~~
 9 ~~ending June 30, 1975; and \$35,000,000 for the fiscal year~~
 10 ~~ending June 30, 1976.~~

11 ~~“GRANTS FOR STATE PROGRAMS-~~

12 ~~“SEC. 1434. (a) (1) There are authorized to be appro-~~
 13 ~~priated for grants to States under this subsection to carry out~~
 14 ~~State public water system supervision programs \$5,000,000~~
 15 ~~for the fiscal year ending June 30, 1975; and \$7,500,000 for~~
 16 ~~the fiscal year ending June 30, 1976.~~

17 ~~“(2) From the sum appropriated under paragraph (1)~~
 18 ~~for a fiscal year, the Administrator shall allot \$50,000 to~~
 19 ~~each State for such year, plus such additional amounts as~~
 20 ~~he determines, on the basis of population, geographical~~
 21 ~~area, number of public water systems, and other relevant~~
 22 ~~factors, are necessary for the State to carry out its program.~~

23 ~~“(3) Any State which has established, or which in-~~
 24 ~~tends to establish, a public water system supervision pro-~~
 25 ~~gram may apply to the Administrator for assistance under~~

1 ~~this subsection. If the Administrator determines that such~~
 2 ~~State has established or will establish such a program and~~
 3 ~~that such State will be able to assume primary enforcement~~
 4 ~~responsibility for public water systems within one year after~~
 5 ~~first receiving assistance under this subsection and that such~~
 6 ~~State will comply with regulations under subsection (c), he~~
 7 ~~shall approve the application of such State.~~

8 ~~“(4) If the Administrator approves an application of~~
 9 ~~a State under paragraph (3), then for each fiscal year in~~
 10 ~~which such State complies with regulations under subsection~~
 11 ~~(c), the Administrator shall pay out of such State's allot-~~
 12 ~~ment not more than 75 per centum of the costs (as deter-~~
 13 ~~mined under regulations of the Administrator) of carrying~~
 14 ~~out the public water system supervision program of such~~
 15 ~~State; except that no assistance under this subsection may~~
 16 ~~be granted to any State for any period beginning more than~~
 17 ~~one year after such State first receives assistance under this~~
 18 ~~subsection, unless during such period such State has primary~~
 19 ~~enforcement responsibility for public water systems.~~

20 ~~“(b) (1) There are authorized to be appropriated for~~
 21 ~~grants to States under this subsection to carry out State un-~~
 22 ~~derground water source protection programs \$5,000,000 for~~
 23 ~~the fiscal year ending June 30, 1975, and \$7,500,000 for~~
 24 ~~the fiscal year ending June 30, 1976.~~

1 ~~"(2) From the sum appropriated under paragraph (1)~~
 2 ~~for a fiscal year, the Administrator shall allot to each State~~
 3 ~~for such year, such amounts as he determines, on the basis~~
 4 ~~of population, geographical area, and other relevant factors,~~
 5 ~~are necessary for the State to carry out its program.~~

6 ~~"(3) Any State which has established, or which intends~~
 7 ~~to establish, an underground water source protection pro-~~
 8 ~~gram may apply to the Administrator for assistance under~~
 9 ~~this subsection. If the Administrator determines that such~~
 10 ~~State has established or will establish such a program, that~~
 11 ~~such State will be able to assume primary enforcement re-~~
 12 ~~sponsibility for underground water sources within two years~~
 13 ~~after first receiving assistance under this subsection, and that~~
 14 ~~such State will comply with regulations under subsection~~
 15 ~~(c), he shall approve the application of such State.~~

16 ~~"(4) If the Administrator approves an application~~
 17 ~~of a State under paragraph (3), then for each fiscal year~~
 18 ~~in which such State complies with regulations under sub-~~
 19 ~~section (c), the Administrator shall pay out of such State's~~
 20 ~~allotment not more than 75 per centum of the costs to the~~
 21 ~~State (as determined under regulations of the Administrator)~~
 22 ~~of carrying out the underground water source protection pro-~~
 23 ~~gram of such State; except that no assistance under this~~
 24 ~~subsection may be granted to any State for any period~~
 25 ~~beginning more than two years after such State first receives~~

1 ~~assistance under this subsection, unless during such period~~
 2 ~~such State has primary enforcement responsibility for under-~~
 3 ~~ground water sources.~~

4 ~~"(e) The Administrator shall prescribe regulations to~~
 5 ~~carry out this section.~~

6 ~~"(d) For purposes of this section:~~

7 ~~"(1) The term 'State drinking water safety pro-~~
 8 ~~gram' means a program of public water system super-~~
 9 ~~vision or of underground water source protection (or~~
 10 ~~both).~~

11 ~~"(2) The term 'public water system supervision'~~
 12 ~~means a State's adoption and enforcement of drinking~~
 13 ~~water regulations which are no less stringent than the~~
 14 ~~national primary drinking water regulations under sec-~~
 15 ~~tion 1412, and for keeping records and making reports~~
 16 ~~required by section 1413 (a) (3).~~

17 ~~"(3) The term 'underground water source protec-~~
 18 ~~tion' means a State's adoption and enforcement of a pro-~~
 19 ~~gram which meets the requirements of regulations under~~
 20 ~~section 1422 (b) (1) (A) (i) and for keeping records~~
 21 ~~and making reports required by section 1422 (b) (1)~~
 22 ~~(A) (ii).~~

23 ~~"SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS;~~

24 ~~GUARANTEED LOANS~~

25 ~~"SEC. 1435. (a) The Administrator may make grants~~
 26 ~~to any person for the purposes of—~~

~~“(1) assisting in the development and demonstration of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and~~

~~“(2) assisting in the development and demonstration of any project which will investigate and demonstrate health implications involved in the reclamation, recycling, and reuse of waste waters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.~~

~~“(b) Grants made by the Administrator under this section shall be subject to the following limitations:~~

~~“(1) Grants under this section shall not exceed 66 $\frac{2}{3}$ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.~~

~~“(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities in any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).~~

~~“(3) Grants under this section shall not be made for any project unless the Administrator determines, after consulting the Council, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.~~

~~“(4) Priority for grants under this section shall be given where there are known or potential public health hazards which require advanced technology for the removal of particles which are too small to be removed by ordinary treatment technology.~~

~~“(c) For the purposes of making grants under subsections (a) and (b) of this section there are hereby authorized to be appropriated \$7,500,000 for the fiscal year ending June 30, 1974; \$7,500,000 for the fiscal year ending June 30, 1975 and \$10,000,000 for the fiscal year ending June 30, 1976.~~

~~“(d) The Administrator during the fiscal years ending June 30, 1975, and June 30, 1976, shall carry out a program of guaranteeing loans made by private lenders to small public water systems for the purpose of enabling such systems to meet primary drinking water regulations (including interim regulations) prescribed under section 1412. No such guarantee may be made with respect to a system unless (1)~~

1 ~~such system cannot obtain financial assistance necessary to~~
 2 ~~comply with such regulations from any other source, and~~
 3 ~~(2) the Administrator determines that any facilities con-~~
 4 ~~structed with assistance under this subsection is not likely~~
 5 ~~to be made obsolete by subsequent changes in primary reg-~~
 6 ~~ulations. The aggregate amount of indebtedness guaranteed~~
 7 ~~with respect to any system may not exceed \$10,000. The~~
 8 ~~aggregate amount of indebtedness guaranteed under this~~
 9 ~~subsection may not exceed \$10,000,000. The Adminis-~~
 10 ~~trator shall prescribe regulations to carry out this subsection.~~

11 ~~"RECORDS AND INSPECTIONS"~~

12 ~~"SEC. 1436. (a) Every person who is a supplier of~~
 13 ~~water, who is or may be otherwise subject to a primary~~
 14 ~~drinking water regulation prescribed under section 1412~~
 15 ~~or to an applicable underground injection control pro-~~
 16 ~~gram (as defined in section 1422 (c)), or who is a~~
 17 ~~grantee, shall establish and maintain such records, make~~
 18 ~~such reports, conduct such monitoring, and provide such~~
 19 ~~information as the Administrator may reasonably require by~~
 20 ~~regulations to assist him in establishing regulations under~~
 21 ~~this title, in determining whether such person has acted~~
 22 ~~or is acting in compliance with this title, or in administering~~
 23 ~~any program of financial assistance under this title.~~

24 ~~"(b) The Administrator, or representatives of the Ad-~~
 25 ~~ministrator duly designated by him, upon presenting appro-~~

1 ~~priate credentials and a written notice to any supplier of~~
 2 ~~water or other person subject to a primary drinking water~~
 3 ~~regulation prescribed under section 1412 or applicable~~
 4 ~~underground injection control program (or person in charge~~
 5 ~~of any of its property), is authorized to enter any establish-~~
 6 ~~ment or facility or other property of such supplier or other~~
 7 ~~person in order to determine whether such supplier or other~~
 8 ~~person has acted or is acting in compliance with this title,~~
 9 ~~including for this purpose, inspection, at reasonable times, of~~
 10 ~~records, files, papers, processes, controls, and facilities, or in~~
 11 ~~order to test any feature of a public water system, including~~
 12 ~~its raw water source. The Administrator or the Comptroller~~
 13 ~~General (or any representative designated by either) shall~~
 14 ~~have access for the purpose of audit and examination to any~~
 15 ~~records, reports, or information of a grantee which are re-~~
 16 ~~quired to be maintained under subsection (a) or which are~~
 17 ~~pertinent to any financial assistance under this title.~~

18 ~~"(c) Whoever fails or refuses to comply with any re-~~
 19 ~~quirement of subsection (a) or to allow the Administrator,~~
 20 ~~the Comptroller General, or representatives of either, to~~
 21 ~~enter and conduct any audit or inspection authorized by sub-~~
 22 ~~section (b) shall be fined not more than \$5,000.~~

23 ~~"(d) (1) Subject to paragraph (2), upon a showing~~
 24 ~~satisfactory to the Administrator by any person that any~~
 25 ~~information required under this section from such person,~~

1 ~~if made public, would divulge trade secrets or secret pro-~~
 2 ~~cesses of such person, the Administrator shall consider such~~
 3 ~~information confidential in accordance with the purposes of~~
 4 ~~section 1905 of title 18 of the United States Code. If the~~
 5 ~~applicant fails to make a showing satisfactory to the Admin-~~
 6 ~~istrator, the Administrator shall give such applicant thirty~~
 7 ~~days' notice before releasing the information to which the~~
 8 ~~application relates (unless the public health or safety re-~~
 9 ~~quires an earlier release of such information).~~

10 ~~"(2) Any information required under this section may~~
 11 ~~be disclosed (1) to other officers, employees, or authorized~~
 12 ~~representatives of the United States concerned with carry-~~
 13 ~~ing out this title, (2) when relevant in any proceeding under~~
 14 ~~this title, or (3) to the extent it deals with the level of con-~~
 15 ~~taminants in drinking water. For purposes of this subsection~~
 16 ~~the term 'information required under this section' means~~
 17 ~~any papers, books, documents, or information, or any par-~~
 18 ~~ticular part thereof, reported to or otherwise obtained by~~
 19 ~~the Administrator under this section.~~

20 ~~"(e) For purposes of this section, (1) the term~~
 21 ~~'grantee' means any person who applies for or receives~~
 22 ~~financial assistance, by grant, contract, or loan guarantee~~
 23 ~~under this title, and (2) the term 'person' includes a Fed-~~
 24 ~~eral agency.~~

1 ~~"NATIONAL DRINKING WATER ADVISORY COUNCIL~~
 2 ~~"SEC. 1437. (a) (1) There is established a National~~
 3 ~~Drinking Water Advisory Council which shall consist of~~
 4 ~~fifteen members appointed by the Administrator after con-~~
 5 ~~sultation with the Secretary. Five members shall be appoint-~~
 6 ~~ed from the general public; five members shall be appointed~~
 7 ~~from appropriate State and local agencies concerned with~~
 8 ~~water hygiene and public water supply; and five members~~
 9 ~~shall be appointed from representatives of private organiza-~~
 10 ~~tions or groups demonstrating an active interest in the field~~
 11 ~~of water hygiene and public water supply. Each member of~~
 12 ~~the Council shall hold office for a term of three years, except~~
 13 ~~that—~~

14 ~~"(1) any member appointed to fill a vacancy~~
 15 ~~occurring prior to the expiration of the term for which~~
 16 ~~his predecessor was appointed shall be appointed for~~
 17 ~~the remainder of such term; and~~

18 ~~"(2) the terms of the members first taking office~~
 19 ~~shall expire as follows: Five shall expire three years~~
 20 ~~after the date of enactment of this title, five shall expire~~
 21 ~~two years after such date, and five shall expire one year~~
 22 ~~after such date, as designated by the Administrator at~~
 23 ~~the time of appointment.~~

24 ~~The members of the Council shall be eligible for reappoint-~~
 25 ~~ment.~~

1 ~~"(b) The Council shall advise, consult with, and make~~
 2 ~~recommendations to the Administrator on matters relating~~
 3 ~~to activities, functions, and policies of the Agency under this~~
 4 ~~title.~~

5 ~~"(c) Members of the Council appointed under this~~
 6 ~~section shall, while attending meetings or conferences of such~~
 7 ~~Council or otherwise engaged in business of such Council,~~
 8 ~~receive compensation and allowances at a rate to be fixed~~
 9 ~~by the Administrator, but not exceeding the daily equivalent~~
 10 ~~of the annual rate of basic pay in effect for grade GS 18~~
 11 ~~of the General Schedule for each day (including travel~~
 12 ~~time) during which they are engaged in the actual per-~~
 13 ~~formance of duties vested in the Council. While away from~~
 14 ~~their homes or regular places of business in the performance~~
 15 ~~of services for the Council, members of the Council shall~~
 16 ~~be allowed travel expenses, including per diem in lieu of~~
 17 ~~subsistence, in the same manner as persons employed inter-~~
 18 ~~mittently in the Government service are allowed expenses~~
 19 ~~under section 5703 (b) of title 5 of the United States Code.~~

20 ~~"(d) Section 14 (a) of the Federal Advisory Commit-~~
 21 ~~tee Act (relating to termination) shall not apply to the~~
 22 ~~Council.~~

23 ~~"FEDERAL AGENCIES~~

24 ~~"SEC. 1438. (a) Each Federal agency having jurisdic-~~
 25 ~~tion over any federally owned or maintained public water~~

1 ~~system shall comply with all national primary drinking~~
 2 ~~water regulations in effect under section 1412.~~

3 ~~"(b) (1) Each Federal agency shall comply with any~~
 4 ~~applicable underground injection control program, and shall~~
 5 ~~keep such records and submit such reports as may be required~~
 6 ~~under such program.~~

7 ~~"(2) The Administrator shall waive compliance with~~
 8 ~~paragraph (1) of this subsection upon request of the Secre-~~
 9 ~~tary of Defense and upon a determination by the President~~
 10 ~~that the requested waiver is necessary in the interest of~~
 11 ~~national security. The Administrator shall maintain a written~~
 12 ~~record of the basis upon which such waiver was granted and~~
 13 ~~make such record available for in camera examination when~~
 14 ~~relevant in a judicial proceeding under this title. Upon the~~
 15 ~~issuance of such a waiver, the Administrator shall publish~~
 16 ~~in the Federal Register a notice that the waiver was granted~~
 17 ~~for national security purposes, unless, upon the request of the~~
 18 ~~Secretary of Defense, the Administrator determines to omit~~
 19 ~~such publication because the publication itself would be con-~~
 20 ~~trary to the interests of national security, in which event the~~
 21 ~~Administrator shall submit notice to the House and Senate~~
 22 ~~Armed Services Committees.~~

23 ~~"GENERAL PROVISIONS~~

24 ~~"SEC. 1439. (a) (1) The Administrator is authorized~~

1 ~~to prescribe such regulations as are necessary or appropriate to carry out his functions under this title.~~

3 ~~"(2) The Administrator may delegate any of his functions under this title (other than prescribing regulations) to any officer or employee of the Agency.~~

6 ~~"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as he deems necessary to assist him in carrying out the purposes of this title.~~

10 ~~"(c) Upon the request of a State or interstate agency, the Administrator may assign personnel of the Agency to such State or interstate agency for the purposes of carrying out the provisions of this title.~~

14 ~~"(d) (1) The Administrator may make payments of grants under this title (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as he may determine.~~

19 ~~"(2) Financial assistance may be made available in the form of grants only to individuals and nonprofit agencies or institutions. For purposes of this paragraph, the term 'nonprofit agency or institution' means an agency or institution no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.~~

1 ~~"(e) The Administrator shall take such action as may be necessary to assure compliance with provisions of the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a-276a(5)). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276e).~~

9 ~~"(f) The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this title to which the Administrator is a party. Unless, within a reasonable time, the Attorney General notifies the Administrator that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.~~

16 ~~"(g) The provisions of this title shall not be construed as affecting any authority of the Administrator under part G of title III of this Act.~~

19 ~~"(h) Not later than April 1 of each year, the Administrator shall submit to the Congress a report respecting the activities of the Agency under this title and containing such recommendations for legislation as he considers necessary. The report of the Administrator under this subsection which is due not later than April 1, 1975, and each subsequent report of the Administrator under this subsection~~

1 ~~shall include a statement on the actual and anticipated cost~~
 2 ~~to public water systems in each State of compliance with~~
 3 ~~the requirements of this title. The Office of Management~~
 4 ~~and Budget may review any report required by this sub-~~
 5 ~~section before its submission to Congress, but the Office may~~
 6 ~~not revise any such report, require any revision in any such~~
 7 ~~report, or delay its submission beyond the day prescribed~~
 8 ~~for its submission, and may submit to Congress its com-~~
 9 ~~ments respecting any such report."~~

10 (b) ~~Section 2 (f) of the Public Health Service Act~~
 11 ~~is amended by inserting "(1)" after "except that" and by~~
 12 ~~inserting before the semicolon at the end thereof the fol-~~
 13 ~~lowing: "and (2) as used in title XIV such term includes~~
 14 ~~Guam, American Samoa, and the Trust Territory of the~~
 15 ~~Pacific Islands".~~

16 ~~RURAL WATER SURVEY~~

17 ~~SEC. 3. (a) The Administrator of the Environmental~~
 18 ~~Protection Agency shall (after consultation with the Secre-~~
 19 ~~tary of Agriculture and the several States) enter into~~
 20 ~~arrangements with public or private entities as may be~~
 21 ~~appropriate to conduct a survey of the quantity, quality, and~~
 22 ~~availability of rural drinking water supplies. Such survey~~
 23 ~~shall include, but not be limited to, the consideration of the~~
 24 ~~number of residents in each rural area—~~

1 ~~(1) presently being inadequately served by a pub-~~
 2 ~~lic or private drinking water supply system, or by an~~
 3 ~~individual home drinking water supply system;~~

4 ~~(2) presently having limited or otherwise inade-~~
 5 ~~quate access to drinking water;~~

6 ~~(3) who, due to the absence or inadequacy of a~~
 7 ~~drinking water supply system, are exposed to an in-~~
 8 ~~creased health hazard; and~~

9 ~~(4) who have experienced incidents of chronic or~~
 10 ~~acute illness, which may be attributed to the absence or~~
 11 ~~inadequacy of a drinking water supply system.~~

12 (b) ~~Such survey shall be completed within eighteen~~
 13 ~~months of the date of enactment of this Act and a final report~~
 14 ~~thereon submitted, not later than six months after the com-~~
 15 ~~pletion of such survey, to the President for transmittal to the~~
 16 ~~Congress. Such report shall include recommendations for~~
 17 ~~improving rural water supplies.~~

18 (c) ~~There is authorized to be appropriated to carry~~
 19 ~~out the provisions of this section \$1,000,000 for the fiscal~~
 20 ~~year ending June 30, 1974; \$2,000,000 for the fiscal year~~
 21 ~~ending June 30, 1975; and \$1,000,000 for the fiscal year~~
 22 ~~ending June 30, 1976.~~

BOTTLED DRINKING WATER

SEC. 4. (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water standards either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments."

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act".

PUBLIC WATER SYSTEMS

SEC. 2. (a) The Public Health Service Act is amended by inserting after title XIII the following new title:

"TITLE XIV—SAFETY OF PUBLIC WATER
SYSTEMS

"PART A—DEFINITIONS

"DEFINITIONS

"SEC. 1401. For purposes of this title:

"(1) The term 'primary drinking water regulation' means a regulation which—

"(A) applies to public water systems;

"(B) specifies contaminants which, in the judgment of the Administrator, may have any adverse effect on the health of persons;

"(C) specifies for each such contaminant either—

"(i) a maximum contaminant level, if, in the judgment of the Administrator, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems, or

"(ii) if, in the judgment of the Administrator, it is not economically or technologically feasible to so ascertain the level of such contaminant, each treatment technique known to the Administrator which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of section 1412; and

"(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system, and requirements as to (i) the minimum quality of

water which may be taken into the system and (ii) siting for new facilities for public water systems.

“(2) The term ‘secondary drinking water regulation’ means a regulation which applies to public water systems and which specifies the maximum contaminant levels which, in the judgment of the Administrator, are requisite to protect the public welfare. Such regulations may apply to any contaminant in drinking water (A) which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use, or (B) which may otherwise adversely affect the public welfare. Such regulations may vary according to geographic and other circumstances.

“(3) The term ‘maximum contaminant level’ means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

“(4) The term ‘public water system’ means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (A) any collection, treatment, storage, and distribution facilities under con-

trol of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

“(5) The term ‘supplier of water’ means any person who owns or operates a public water system.

“(6) The term ‘contaminant’ means any physical, chemical, biological, or radiological substance or matter in water.

“(7) The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(8) The term ‘Agency’ means the Environmental Protection Agency.

“(9) The term ‘Council’ means the National Drinking Water Advisory Council established under section 1446.

“(10) The term ‘municipality’ means a city, town, or other public body created by or pursuant to State law, or an Indian tribal organization authorized by law.

“(11) The term ‘Federal agency’ means any department, agency, or instrumentality of the United States.

“(12) The term ‘person’ means an individual, corporation, company, association, partnership, State, or municipality.

1 *"PART B—PUBLIC WATER SYSTEMS*

2 *"COVERAGE*

3 *"SEC. 1411. Subject to sections 1415 and 1416, na-*
 4 *tional primary drinking water regulations under this part*
 5 *shall apply to each public water system in each State; except*
 6 *that such regulations shall not apply to a public water*
 7 *system—*

8 *"(1) which consists only of distribution and storage*
 9 *facilities (and does not have any collection and treatment*
 10 *facilities);*

11 *"(2) which obtains all of its water from, but is not*
 12 *owned or operated by, a public water system to which*
 13 *such regulations apply; and*

14 *"(3) which does not sell water to any person.*

15 *"NATIONAL DRINKING WATER REGULATIONS*

16 *"SEC. 1412. (a)(1) The Administrator shall publish*
 17 *proposed national interim primary drinking water regula-*
 18 *tions within 90 days after the date of enactment of this title.*
 19 *Within 180 days after such date of enactment, he shall pro-*
 20 *mulgate such regulations with such modifications as he deems*
 21 *appropriate. Regulations under this paragraph may be*
 22 *amended from time to time.*

23 *"(2) National interim primary drinking water regula-*
 24 *tions promulgated under paragraph (1) shall protect health*
 25 *to the extent feasible, using technology, treatment techniques,*

1 *and other means, which the Administrator determines are*
 2 *generally available (taking costs into consideration) on the*
 3 *date of enactment of this title.*

4 *"(3) The interim primary regulations first promulgated*
 5 *under paragraph (1) shall take effect not later than one*
 6 *year after the date of their promulgation.*

7 *"(b)(1)(A) Within 10 days of the date the report on*
 8 *the study conducted pursuant to subsection (e) is submitted*
 9 *to Congress, the Administrator shall publish in the Federal*
 10 *Register, and provide opportunity for comment on, the—*

11 *"(i) proposals in the report for recommended maxi-*
 12 *mum contaminant levels for national primary drinking*
 13 *water regulations, and*

14 *"(ii) list in the report of contaminants the levels*
 15 *of which in drinking water cannot be determined but*
 16 *which may have an adverse effect on the health of*
 17 *persons.*

18 *"(B) Within 90 days after the date the Administrator*
 19 *makes the publication required by subparagraph (A), he shall*
 20 *by rule establish recommended maximum contaminant levels*
 21 *for each contaminant which, in his judgment based on the*
 22 *report on the study conducted pursuant to subsection (e), may*
 23 *have any adverse effect on the health of persons. Each such*
 24 *recommended maximum contaminant level shall be set at a*
 25 *level at which, in the Administrator's judgment based on such*

1 report, no known or anticipated adverse effects on the health
 2 of persons occur and which allows an adequate margin of
 3 safety. In addition, he shall, on the basis of the report on the
 4 study conducted pursuant to subsection (e), list in the rules
 5 under this subparagraph any contaminant the level of which
 6 cannot be accurately enough measured in drinking water to
 7 establish a recommended maximum contaminant level and
 8 which may have any adverse effect on the health of persons.
 9 Based on information available to him, the Administrator
 10 may by rule change recommended levels established under this
 11 subparagraph or change such list.

12 “(2) On the date the Administrator establishes pursuant
 13 to paragraph (1)(B) recommended maximum contaminant
 14 levels he shall publish in the Federal Register proposed revised
 15 national primary drinking water regulations (meeting the
 16 requirements of paragraph (3)). Within 180 days after the
 17 date of such proposed regulations, he shall promulgate such
 18 revised drinking water regulations with such modifications as
 19 he deems appropriate.

20 “(3) Revised national primary drinking water regula-
 21 tions promulgated under paragraph (2) of this subsection
 22 shall be primary drinking water regulations which specify a
 23 maximum contaminant level or require the use of treatment
 24 techniques for each contaminant for which a recommended
 25 maximum contaminant level is established or which is listed

1 in a rule under paragraph (1)(B). The maximum contami-
 2 nant level specified in a revised national primary drinking
 3 water regulation for a contaminant shall be as close to the
 4 recommended maximum contaminant level established under
 5 paragraph (2) for such contaminant as is feasible. A re-
 6 quired treatment technique for a contaminant for which a
 7 recommended maximum contaminant level has been established
 8 under paragraph (2) shall reduce such contaminant to a
 9 level which is as close to the recommended maximum con-
 10 taminant level for such contaminant as is feasible. A required
 11 treatment technique for a contaminant which is listed under
 12 paragraph (1)(B) shall require treatment necessary in
 13 the Administrator's judgment to prevent known or antici-
 14 pated adverse effects on the health of persons to the extent
 15 feasible. For purposes of this paragraph, the term 'feasible'
 16 means feasible with the use of technology, treatment tech-
 17 niques, and other means, which the Administrator finds are
 18 generally available (taking cost into consideration).

19 “(4) Revised national primary drinking water regula-
 20 tions shall be amended whenever changes in technology,
 21 treatment techniques, and other means permit greater pro-
 22 tection of the health of persons, but in any event such regula-
 23 tions shall be reviewed at least once every 5 years.

24 “(5) Revised national primary drinking water regu-
 25 lations promulgated under this subsection (and amendments

1 thereto) shall take effect not later than 1 year after the
 2 date of their promulgation. Regulations under subsection
 3 (a) shall be superseded by regulations under this sub-
 4 section to the extent provided by the regulations under this sub-
 5 section.

6 “(c) The Administrator shall publish proposed na-
 7 tional secondary drinking water regulations within 270
 8 days after the date of enactment of this title. Within 90 days
 9 after publication of any such regulation, he shall promulgate
 10 such regulation with such modifications as he deems appro-
 11 priate. Regulations under this subsection may be amended
 12 from time to time.

13 “(d) Regulations under this section shall be prescribed
 14 in accordance with section 553 of title 5, United States Code
 15 (relating to rulemaking). In proposing and promulgating
 16 regulations under this section, the Administrator shall consult
 17 with the Secretary and the National Drinking Water Ad-
 18 visory Council.

19 “(e)(1) The Administrator shall enter into appropriate
 20 arrangements with the National Academy of Sciences (or
 21 with another independent scientific organization if appro-
 22 priate arrangements cannot be made with such Academy)
 23 to conduct a study to determine (A) the maximum con-
 24 taminant levels which should be recommended under subsec-
 25 tion (b)(2) in order to protect the health of persons from any

1 known or anticipated adverse effects, and (B) the existence
 2 of any contaminants the levels of which in drinking water
 3 cannot be determined but which may have an adverse effect
 4 on the health of persons.

5 “(2) The result of the study shall be reported to Con-
 6 gress no later than 2 years after the date of enactment of
 7 this title. The report shall contain (A) a summary and evalu-
 8 ation of relevant publications and unpublished studies;
 9 (B) a statement of methodologies and assumptions for esti-
 10 mating the levels at which adverse health effects may occur;
 11 (C) a statement of methodologies and assumptions for
 12 estimating the margin of safety which should be incorporated
 13 in the national primary drinking water regulations; (D)
 14 proposals for recommended maximum contaminant levels for
 15 national primary drinking water regulations, based on the
 16 methodologies, assumptions, and studies referred to in
 17 clauses (A), (B), and (C) and in paragraph (4); (E) a
 18 list of contaminants the level of which in drinking water can-
 19 not be determined but which may have an adverse effect on
 20 the health of persons; and (F) recommended studies and test
 21 protocols for future research on the health effects of drinking
 22 water contaminants, including a list of the major research
 23 priorities and estimated costs necessary to conduct such
 24 priority research.

25 “(3) In developing its proposals for recommended maxi-

1 mum contaminant levels under paragraph (2)(D) the
 2 National Academy of Sciences (or other organization pre-
 3 paring the report) shall evaluate and explain (separately
 4 and in composite) the impact of the following considerations:

5 “(A) The existence of groups or individuals in
 6 the population which are more susceptible to adverse
 7 effects than the normal healthy adult.

8 “(B) The exposure to contaminants in other
 9 media than drinking water (including exposures in
 10 food, in the ambient air, and in occupational settings)
 11 and the resulting body burden of contaminants.

12 “(C) Synergistic effects resulting from exposure
 13 to or interaction by two or more contaminants.

14 “(D) The contaminant exposure and body burden
 15 levels which alter physiological function or structure in
 16 a manner reasonably suspected of increasing the risk
 17 of illness.

18 “(4) In making the study under this subsection, the
 19 National Academy of Sciences (or other organization) shall
 20 collect and correlate (A) morbidity and mortality data and
 21 (B) monitored data on the quality of drinking water. Any
 22 conclusions based on such correlation shall be included in
 23 the report of the study.

24 “(5) Neither the report of the study under this sub-
 25 section nor any draft of such report shall be submitted to the

1 Office of Management and Budget or to any other Federal
 2 agency (other than the Environmental Protection Agency)
 3 prior to its submission to Congress.

4 “(6) Of the funds authorized to be appropriated to the
 5 Administrator by this title, such amounts as may be required
 6 shall be available to carry out the study and to make the
 7 report directed by paragraph (2) of this subsection.

8 “STATE PRIMARY ENFORCEMENT RESPONSIBILITY

9 “SEC. 1413. (a) For purposes of this title, a State
 10 has primary enforcement responsibility for public water
 11 systems during any period for which the Administrator
 12 determines (pursuant to regulations prescribed under sub-
 13 section (b)) that such State—

14 “(1) has adopted drinking water regulations which
 15 (A) during the period beginning on the date the na-
 16 tional interim primary drinking water regulations are
 17 promulgated under section 1412 and ending on the date
 18 such regulations take effect are no less stringent than
 19 such regulations, and (B) after such effective date are
 20 no less stringent than the interim and revised national
 21 primary drinking water regulations in effect under such
 22 section;

23 “(2) has adopted and is implementing adequate
 24 procedures for the enforcement of such State regulations,
 25 including conducting such monitoring and making such

1 inspections as the Administrator may require by regula-
2 tion;

3 "(3) will keep such records and make such reports
4 with respect to its activities under paragraphs (1) and
5 (2) as the Administrator may require by regulation;
6 and

7 "(4) if it permits variances or exemptions, or both,
8 from the requirements of its drinking water regulations
9 which meets the requirements of paragraph (1), permits
10 such variances and exemptions under conditions and in
11 a manner which is not less stringent than in conditions
12 under, and the manner in, which variances and exemp-
13 tions may be granted under sections 1415 and 1416.

14 "(b)(1) The Administrator shall, by regulation (pro-
15 posed within 180 days of the date of the enactment of this
16 title), prescribe the manner in which a State may apply to the
17 Administrator for a determination that the requirements of
18 paragraphs (1), (2), (3), and (4) of subsection (a) are
19 satisfied with respect to the State, the manner in which the
20 determination is made, the period for which the determina-
21 tion will be effective, and the manner in which the Adminis-
22 trator may determine that such requirements are no longer
23 met. Such regulations shall require that before a determina-
24 tion of the Administrator that such requirements are no
25 longer met with respect to a State may become effective, the

1 Administrator shall notify such State of the determination
2 and the reasons therefor and shall provide an opportunity
3 for public hearing on the determination. Such regulations
4 shall be promulgated (with such modifications as the Admin-
5 istrator deems appropriate) within 90 days of the publica-
6 tion of the proposed regulations in the Federal Register. The
7 Administrator shall promptly notify in writing the chief
8 executive officer of each State of the promulgation of regula-
9 tions under this paragraph. Such notice shall contain a copy
10 of the regulations and shall specify a State's authority under
11 this title when it is determined to have primary enforcement
12 responsibility for public water systems.

13 "(2) When an application is submitted in accordance
14 with the Administrator's regulations under paragraph (1),
15 the Administrator shall within 90 days of the date on which
16 such application is submitted (A) make the determination
17 applied for, or (B) determine that he is unable to make such
18 determination and notify the applicant in writing of the
19 reasons for his inability to make such determination.

20 "FAILURE BY STATE TO ASSURE ENFORCEMENT OF

21 DRINKING WATER REGULATIONS

22 "SEC. 1414. (a)(1) Whenever the Administrator
23 finds during a period during which a State has primary
24 enforcement responsibility for public water systems (with-
25 in the meaning of section 1413(a)) that any public water
26 system—

1 “(A) for which a variance under section 1415 or
2 an exemption under section 1416 is not in effect, does
3 not comply with any national primary drinking water
4 regulation in effect under section 1412, or

5 “(B) for which a variance under section 1415 or
6 an exemption under section 1416 is in effect, does not
7 comply with any schedule, control measure, or other re-
8 quirement imposed pursuant thereto,

9 he shall so notify the State and provide such advice and
10 technical assistance to such State and public water system
11 as may be appropriate to bring the system into compliance
12 with such regulation or requirement by the earliest feasible
13 time. If the Administrator finds such failure to comply extends
14 beyond the thirtieth day after the date of such notice, he shall
15 give public notice of such finding and request the State to
16 report within fifteen days from the date of such public notice
17 as to the steps being taken to bring the system into compliance
18 (including reasons for anticipated steps to be taken to bring
19 the system into compliance and for any failure to take steps
20 to bring the system into compliance). If—

21 “(A) such failure to comply extends beyond the
22 sixtieth day after the date of the notice given pursuant to
23 the first sentence of this paragraph, and

24 “(B) (i) the State fails to submit the report re-
25 quested by the Administrator within the time period pre-
26 scribed by the preceding sentence, or

1 “(ii) the State submits such report within such pe-
2 riod but the Administrator, after considering the report,
3 determines that by failing to implement by such sixtieth
4 day adequate procedures to bring the system into com-
5 pliance by the earliest feasible time the State abused its
6 discretion in carrying out primary enforcement respon-
7 sibility for public water systems,

8 the Administrator may commence a civil action under sub-
9 section (b).

10 “(2) Whenever, on the basis of information available
11 to him, the Administrator finds during a period during which
12 a State does not have primary enforcement responsibility
13 for public water systems that a public water system in
14 such State—

15 “(A) for which a variance under section 1415(a)
16 (2) or an exemption under section 1416(f) is not in
17 effect, does not comply with any national primary drink-
18 ing water regulation in effect under section 1412, or

19 “(B) for which a variance under section 1415(a)
20 (2) or an exemption under section 1416(f) is in effect,
21 does not comply with any schedule, control measure, or
22 other requirement imposed pursuant thereto,

23 he may commence a civil action under subsection (b).

24 “(b) The Administrator may bring a civil action in the
25 appropriate United States district court to require compli-

1 *ance with a national primary drinking water regulation or*
 2 *with any schedule, control measure, or other requirement*
 3 *imposed pursuant to a variance or exemption granted under*
 4 *section 1415 or 1416 if—*

5 *“(1) authorized under paragraph (1) or (2) of*
 6 *subsection (a), or*

7 *“(2) if requested by (A) the chief executive officer*
 8 *of the State in which is located the public water system*
 9 *which is not in compliance with such regulation or re-*
 10 *quirement, or (B) the agency of such State which has*
 11 *jurisdiction over compliance by public water systems in*
 12 *the State with national primary drinking water regu-*
 13 *lations or State drinking water regulations.*

14 *The court may enter such judgment as protection of public*
 15 *health may require, taking into consideration the time neces-*
 16 *sary to comply and the availability of alternative water*
 17 *supplies.*

18 *“(c) Each owner or operator of a public water system*
 19 *shall give notice to the persons served by it—*

20 *“(1) of any failure on the part of the public water*
 21 *system to—*

22 *“(A) comply with an applicable maximum*
 23 *contaminant level or treatment technique require-*
 24 *ment of, or a testing procedure prescribed by, a*
 25 *national primary drinking water regulation, or*

1 *“(B) perform monitoring required by section*
 2 *1445(a), and*

3 *“(2) if the public water system is subject to a vari-*
 4 *ance granted under section 1415(a)(1)(A) or 1415*
 5 *(a)(2) for an inability to meet a maximum contaminant*
 6 *level requirement or is subject to an exemption granted*
 7 *under section 1416, of—*

8 *“(A) the existence of such variance or exemp-*
 9 *tion, and*

10 *“(B) any failure to comply with the require-*
 11 *ments of any schedule or control measure pre-*
 12 *scribed pursuant to the variance or exemption.*

13 *The Administrator shall by regulation prescribe the form*
 14 *and manner for giving such notice. Such notice shall be*
 15 *given not less than once every 3 months, shall be given by*
 16 *publication in a newspaper of general circulation serving the*
 17 *area served by each such water system (as determined by the*
 18 *Administrator), and shall be furnished to the other communi-*
 19 *cations media serving such area. If the water bills of a public*
 20 *water system are issued more often than once every 3 months,*
 21 *such notice shall be included in at least one water bill of the*
 22 *system every 3 months, and if a public water system issues its*
 23 *water bills less often than once every 3 months, such notice*
 24 *shall be included in each of the water bills issued by the system.*
 25 *Any person who willfully violates this subsection or regula-*

1 tions thereunder shall be fined not more than \$5,000.

2 “(d) Whenever, on the basis of information available
3 to him, the Administrator finds that within a reasonable time
4 after national secondary drinking water regulations have
5 been promulgated, one or more public water systems in a State
6 do not comply with such secondary regulations, and that
7 such noncompliance appears to result from a failure of such
8 State to take reasonable action to assure that public water
9 systems throughout such State meet such secondary regula-
10 tions, he shall so notify the State.

11 “(e) Nothing in this title shall diminish any author-
12 ity of a State or political subdivision to adopt or enforce
13 any law or regulation respecting drinking water regulations
14 or public water systems but no such law or regulation
15 shall relieve any person of any requirement otherwise appli-
16 cable under this title.

17 “(f) If the Administrator makes a finding of non-
18 compliance (described in subparagraph (A) or (B) of sub-
19 section (a)(1)) with respect to a public water system in
20 a State which has primary enforcement responsibility, the
21 Administrator may, for the purpose of assisting that State
22 in carrying out such responsibility and upon the petition
23 of such State or public water system or persons served by
24 such system, hold, after appropriate notice, public hearings
25 for the purpose of gathering information from technical or

1 other experts, Federal, State, or other public officials, rep-
2 resentatives of such public water system, persons served by
3 such system, and other interested persons on—

4 “(1) the ways in which such system can within the
5 earliest feasible time be brought into compliance with the
6 regulation or requirement with respect to which such
7 finding was made, and

8 “(2) the means for the maximum feasible protection
9 of the public health during any period in which such
10 system is not in compliance with a national primary
11 drinking water regulation or requirement applicable to
12 a variance or exemption.

13 On the basis of such hearings the Administrator shall issue
14 recommendations which shall be sent to such State and pub-
15 lic water system and shall be made available to the public
16 and communications media.

17 “VARIANCES

18 “SEC. 1415. (a) Notwithstanding any other provision
19 of this part, variances from national primary drinking water
20 regulations may be granted as follows:

21 “(1) (A) A State which has primary enforcement
22 responsibility for public water systems may grant one
23 or more variances from an applicable national primary
24 drinking water regulation to one or more public water
25 systems within its jurisdiction which, because of char-

acteristics of the raw water resources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation despite application of the technology, treatment techniques, or other means, which the Administrator finds are generally available (taking costs into consideration). A variance granted under this subparagraph shall be conditioned on each system to which it applies implementing such control measures as the State finds can be complied with during the period the variance is in effect.

“(B) A State which has primary enforcement responsibility for public water systems may grant to one or more public water systems within its jurisdiction one or more variances from any provision of a rational primary drinking water regulation which requires the use of a specified treatment technique with respect to a contaminant if the public water system applying for the variance demonstrates to the satisfaction of the State that such treatment technique is not necessary to protect the health of persons because of the nature of the raw water source of such system. A variance granted under this subparagraph shall be conditioned on such monitoring and other requirements as the Administrator may prescribe.

“(C) Before a variance proposed to be granted by a State under subparagraph (A) or (B) may take effect, such State shall provide notice and opportunity for public hearing on the proposed variance. A notice given pursuant to the preceding sentence may cover the granting of more than one variance and a hearing held pursuant to such notice shall include each of the variances covered by the notice. The State shall promptly notify the Administrator of all variances granted by it. Such notification shall contain the reason for the variance and documentation of the need for the variance.

“(D)(i) If the Administrator finds that a State has, in a substantial number of instances, abused its discretion in granting variances under subparagraph (A) or (B) or that in a substantial number of cases the State has failed to impose reasonable control measures or monitoring or other requirements during the period the variances are in effect, the Administrator shall notify the State of his finding. Such notice shall—

“(I) identify each public water system with respect to which the finding was made,

“(II) specify the reasons for the finding, and

“(III) as appropriate, propose revocations of specific variances or propose revised control meas-

1 ures or monitoring or other requirements for specific
2 public water systems granted variances, or both.

3 “(ii) The Administrator shall provide reasonable
4 notice and public hearing on the provisions of each notice
5 given pursuant to clause (i) of this subparagraph. After
6 a hearing on a notice pursuant to such clause, the Ad-
7 ministrator shall (I) rescind the finding for which the
8 notice was given and promptly notify the State of such
9 rescission, or (II) promulgate (with such modifications
10 as he deems appropriate) such variance revocations and
11 revised variance control measures or other requirements
12 proposed in such notice as he deems appropriate. Not
13 later than 180 days after the date a notice is given
14 pursuant to clause (i) of this subparagraph, the Admin-
15 istrator shall complete the hearing on the notice and take
16 the action required by the preceding sentence.

17 “(iii) If a State is notified under clause (i) of this
18 subparagraph of a finding of the Administrator made
19 with respect to a variance granted a public water sys-
20 tem within that State or to a control measure or other
21 requirement for a variance and if before a revocation of
22 such variance or a revision of such control measure or
23 other requirement promulgated by the Administrator
24 takes effect, the State takes corrective action with respect

1 to such variance or control measure or other requirement
2 which the Administrator determines makes his finding
3 inapplicable to such variance or control measure or
4 other requirement, the Administrator shall rescind the
5 application of his finding to that variance or control
6 measure or other requirement. No variance revocation or
7 revised control measure or other requirement may take
8 effect before the expiration of 90 days following the date
9 of the notice in which the revocation or revised control
10 measure or other requirement was proposed.

11 “(2) If a State does not have primary enforcement
12 responsibility for public water systems, the Administra-
13 tor shall have the same authority to grant variances in
14 such State as the State would have under paragraph (1)
15 if it had primary enforcement responsibility.

16 “(3) The Administrator may grant a variance from
17 any treatment technique requirement of a national pri-
18 mary drinking water regulation upon a showing by any
19 person that an alternative treatment technique not
20 included in such requirement is at least as efficient in
21 lowering the level of the contaminant with respect to
22 which such requirement was prescribed. A variance
23 under this paragraph shall be conditioned on the use of
24 the alternative treatment technique which is the basis
25 of the variance.

1 “(b) Any control measure or other requirement on
2 which a variance granted under this section is conditioned
3 may be enforced under section 1414 as if such control measure
4 was part of a national primary drinking water regulation.

5 “(c) For purposes of this section, the term ‘treatment
6 technique requirement’ means a requirement in a national
7 primary drinking water regulation which specifies for a
8 contaminant (in accordance with section 1401(1)(C)(ii))
9 each treatment technique known to the Administrator which
10 leads to a reduction in the level of such contaminant sufficient
11 to satisfy the requirements of section 1412(b)(3).

12 “EXEMPTIONS

13 “SEC. 1416. (a) A State which has primary enforcement
14 responsibility may exempt any public water system within the
15 State’s jurisdiction from any requirement respecting a maxi-
16 mum contaminant level or any treatment technique require-
17 ment, or from both, of an applicable national primary drinking
18 water regulation upon a finding that—

19 “(1) due to compelling factors (which may include
20 economic factors), the public water system is unable to
21 comply with such contaminant level or treatment tech-
22 nique requirement, and

23 “(2) the public water system was in operation on
24 the effective date of such contaminant level or treatment
25 technique requirement.

1 “(b)(1) If a State grants a public water system an ex-
2emption under subsection (a), it shall prescribe, within one
3 year of the date the exemption is granted, a schedule for—

4 “(A) compliance (including increments of prog-
5ress) by the public water system with each contaminant
6 level requirement and treatment technique requirement
7 with respect to which the exemption was granted, and

8 “(B) implementation by the public water system
9 of such control measures as the State may require for
10 each contaminant, subject to such contaminant level re-
11 quirement or treatment technique requirement, during
12 the period ending on the date compliance with such re-
13 quirement is required.

14 Before a schedule prescribed by a State pursuant to this sub-
15 section may take effect, the State shall provide notice and
16 opportunity for a public hearing on the schedule. A notice
17 given pursuant to the preceding sentence may cover the pre-
18 scribing of more than one such schedule and a hearing held
19 pursuant to such notice shall include each of the schedules
20 covered by the notice.

21 “(2)(A) A schedule prescribed pursuant to this sub-
22 section for a public water system granted an exemption under
23 subsection (a) shall require compliance by the system with
24 each contaminant level and treatment technique require-
25 ment with respect to which the exemption was granted as

1 expeditiously as practicable (as the State may reasonably
2 determine) but (except as provided in subparagraph (B))—

3 “(i) in the case of an exemption granted with
4 respect to a contaminant level or treatment technique
5 requirement prescribed by the interim national primary
6 drinking water regulations promulgated under section
7 1412(a), not later than January 1, 1981; and

8 “(ii) in the case of an exemption granted with
9 respect to a contaminant level or treatment technique
10 requirement prescribed by revised national primary
11 drinking water regulations, not later than seven years
12 after the date such requirement takes effect.

13 “(B) Notwithstanding clauses (i) and (ii) of sub-
14 paragraph (A) of this paragraph, the final date for com-
15 pliance prescribed in a schedule prescribed pursuant to this
16 subsection for an exemption granted for a public water
17 system which (as determined by the State granting the
18 exemption) has entered into an enforceable agreement to
19 become a part of a regional public water system shall—

20 “(i) in the case of a schedule prescribed for an
21 exemption granted with respect to a contaminant level
22 or treatment technique requirement prescribed by interim
23 national primary drinking water regulations, be not later
24 than January 1, 1983; and

1 “(ii) in the case of a schedule prescribed for an
2 exemption granted with respect to a contaminant level
3 or treatment technique requirement prescribed by re-
4 vised national primary drinking water regulations, be
5 not later than nine years after such requirement takes
6 effect.

7 “(3) Each public water system's exemption granted by
8 a State under subsection (a) shall be conditioned by the
9 State upon compliance by the public water system with the
10 schedule prescribed by the State pursuant to this subsection.
11 The requirements of each schedule prescribed by a State
12 pursuant to this subsection shall be enforceable by the State
13 under its laws. Any requirement of a schedule on which an
14 exemption granted under this section is conditioned may be
15 enforced under section 1414 as if such requirement was
16 part of a national primary drinking water regulation.

17 “(4) Each schedule prescribed by a State pursuant to
18 this subsection shall be deemed approved by the Adminis-
19 trator unless the exemption for which it was prescribed is
20 revoked by the Administrator under subsection (d)(2) or
21 the schedule is revised by the Administrator under such
22 subsection.

23 “(c) Each State which grants an exemption under
24 subsection (a) shall promptly notify the Administrator of

1 the granting of such exemption. Such notification shall
2 contain the reasons for the exemption and document the
3 need for the exemption.

4 “(d)(1) Not later than 18 months after the effective
5 date of the interim national primary drinking water regula-
6 tions the Administrator shall complete a comprehensive re-
7 view of the exemptions granted (and schedules prescribed
8 pursuant thereto) by the States during the one-year period
9 beginning on such effective date. The Administrator shall
10 conduct such subsequent reviews of exemptions and schedules
11 as he deems necessary to carry out the purposes of this title.

12 “(2)(A) If the Administrator finds that a State has, in
13 a substantial number of instances, abused its discretion in
14 granting exemptions under subsection (a) or failed to pre-
15 scribe schedules in accordance with subsection (b), the Ad-
16 ministrator shall notify the State of his finding. Such notice
17 shall—

18 “(i) identify each exempt public water system with
19 respect to which the finding was made,

20 “(ii) specify the reasons for the finding, and

21 “(iii) as appropriate, propose revocations of specific
22 exemptions or propose revised schedules for specific
23 exempt public water systems, or both.

24 “(B) The Administrator shall provide reasonable notice
25 and public hearing on the provisions of each notice given

1 pursuant to subparagraph (A). After a hearing on a notice
2 pursuant to subparagraph (A), the Administrator shall (i)
3 rescind the finding for which the notice was given and
4 promptly notify the State of such rescission, or (ii) pro-
5 mulgate (with such modifications as he deems appropriate)
6 such exemption revocations and revised schedules proposed in
7 such notice as he deems appropriate. Not later than 180 days
8 after the date a notice is given pursuant to subparagraph
9 (A), the Administrator shall complete the hearing on the
10 notice and take the action required by the preceding sentence.

11 “(C) If a State is notified under subparagraph (A) of a
12 finding of the Administrator made with respect to an exemp-
13 tion granted a public water system within that State or to a
14 schedule prescribed pursuant to such an exemption and if
15 before a revocation of such exemption or a revision of such
16 schedule promulgated by the Administrator takes effect the
17 State takes corrective action with respect to such exemption or
18 schedule which the Administrator determines makes his finding
19 inapplicable to such exemption or schedule, the Administrator
20 shall rescind the application of his finding to that exemption or
21 schedule. No exemption revocation or revised schedule may
22 take effect before the expiration of 90 days following the date
23 of the notice in which the revocation or revised schedule was
24 proposed.

25 “(e) For purposes of this section, the term ‘treatment

1 *technique requirement' means a requirement in a national*
 2 *primary drinking water regulation which specifies for a*
 3 *contaminant (in accordance with section 1401(1)(C)(ii))*
 4 *each treatment technique known to the Administrator which*
 5 *leads to a reduction in the level of such contaminant suffi-*
 6 *cient to satisfy the requirements of section 1412(b)(3).*

7 “(f) If a State does not have primary enforcement re-
 8 sponsibility for public water systems, the Administrator
 9 shall have the same authority to exempt public water systems
 10 in such State from maximum contaminant level requirements
 11 and treatment technique requirements under the same condi-
 12 tions and in the same manner as the State would be authorized
 13 to grant exemptions under this section if it had primary
 14 enforcement responsibility.

15 “PART C—PROTECTION OF UNDERGROUND SOURCES OF
 16 DRINKING WATER

17 “REGULATIONS FOR STATE PROGRAMS

18 “SEC. 1421. (a)(1) The Administrator shall pub-
 19 lish proposed regulations for State underground injection
 20 control programs within 180 days after the date of enact-
 21 ment of this title. Within 180 days after publication of such
 22 proposed regulations, he shall promulgate such regulations
 23 with such modifications as he deems appropriate. Any regula-
 24 tion under this subsection may be amended from time to time.

25 “(2) Any regulation under this section shall be pro-

1 posed and promulgated in accordance with section 553 of
 2 title 5, United States Code (relating to rulemaking), except
 3 that the Administrator shall provide opportunity for public
 4 hearing prior to promulgation of such regulations. In pro-
 5 posing and promulgating regulations under this section, the
 6 Administrator shall consult with the Secretary, the National
 7 Drinking Water Advisory Council, and other appropriate
 8 Federal entities and with interested State entities.

9 “(b)(1) Regulations under subsection (a) for State
 10 underground injection programs shall contain minimum re-
 11 quirements for effective programs to prevent underground
 12 injection which endangers drinking water sources within the
 13 meaning of subsection (d)(2). Such regulations shall re-
 14 quire that a State program, in order to be approved under
 15 section 1422—

16 “(A) shall prohibit, effective three years after the
 17 date of the enactment of this title, any underground in-
 18 jection in such State which is not authorized by a permit
 19 issued by the State (except that the regulations may per-
 20 mit a State to authorize underground injection by rule);

21 “(B) shall require (i) in the case of a program
 22 which provides for authorization of underground injec-
 23 tion by permit, that the applicant for the permit to inject
 24 must satisfy the State that the underground injection will
 25 not endanger drinking water sources, and (ii) in the

1 case of a program which provides for such an authoriza-
 2 tion by rule, that no rule may be promulgated which
 3 authorizes any underground injection which endangers
 4 underground water sources;

5 “(C) shall include inspection, monitoring, record-
 6 keeping, and reporting requirements; and

7 “(D) shall apply (i) as prescribed by section 1447
 8 (b), to underground injections by Federal agencies, and
 9 (ii) to underground injections by any other person
 10 whether or not occurring on property owned or leased
 11 by the United States.

12 “(2) Regulations for State underground injection con-
 13 trol programs may not prescribe requirements which interfere
 14 with or impede—

15 “(A) the underground injection of brine or other
 16 fluids which are brought to the surface in connection with
 17 oil or natural gas production, or

18 “(B) any underground injection for the secondary
 19 or tertiary recovery of oil or natural gas,
 20 unless such requirements are essential to assure that under-
 21 ground sources of drinking water will not be endangered by
 22 such injection.

23 “(c)(1) The Administrator may, upon application of
 24 the Governor of a State which authorizes underground injec-
 25 tion by means of permits, authorize such State to issue (with-

1 out regard to subsection (b)(1)(B)(i)) temporary permits
 2 for underground injection which may be effective until the ex-
 3 piration of four years after the date of enactment of this
 4 title, if—

5 “(A) the Administrator finds that the State has
 6 demonstrated that it is unable and could not reasonably
 7 have been able to process all permit applications within
 8 the time available;

9 “(B) the Administrator determines the adverse effect
 10 on the environment of such temporary permits is not
 11 unwarranted;

12 “(C) such temporary permits will be issued only
 13 with respect to injection wells in operation on the date on
 14 which such State's permit program approved under this
 15 part first takes effect and for which there was inadequate
 16 time to process its permit application; and

17 “(D) the Administrator determines the temporary
 18 permits require the use of adequate safeguards established
 19 by rules adopted by him.

20 “(2) The Administrator may, upon application of the
 21 Governor of a State which authorizes underground injection
 22 by means of permits, authorize such State to issue (without
 23 regard to subsection (b)(1)(B)(i)), but after reasonable
 24 notice and public hearing, one or more temporary permits
 25 each of which is applicable to a particular injection well and

1 to the underground injection of a particular fluid and which
 2 may be effective until the expiration of four years after the
 3 date of enactment of this title, if the State has found, on the
 4 record of such hearing—

5 “(A) that technology (or other means) to permit
 6 safe injection of the fluid in accordance with the appli-
 7 cable underground injection control program is not gen-
 8 erally available (taking costs into consideration);

9 “(B) that injection of the fluid would be less
 10 harmful to health than the use of other available means
 11 of disposing of waste or producing the desired product;
 12 and

13 “(C) that available technology or other means
 14 have been employed (and will be employed) to reduce
 15 the volume and toxicity of the fluid and to minimize the
 16 potentially adverse effect of the injection on the public
 17 health.

18 “(d) For purposes of this part:

19 “(1) The term ‘underground injection’ means the
 20 subsurface emplacement of fluids by well injection.

21 “(2) Underground injection endangers drinking
 22 water sources if such injection may result in the presence
 23 in underground water which supplies or can reasonably
 24 be expected to supply any public water system of any
 25 contaminant, and if the presence of such contaminant

1 may result in such system’s not complying with any
 2 national primary drinking water regulation or may
 3 otherwise adversely affect the health of persons.

4 “STATE PRIMARY ENFORCEMENT RESPONSIBILITY

5 “SEC. 1422. (a) Within 180 days after the date of
 6 enactment of this title, the Administrator shall list in the
 7 Federal Register each State for which in his judgment a
 8 State underground injection control program may be nec-
 9 essary to assure that underground injection will not endanger
 10 drinking water sources. Such list may be amended from time
 11 to time.

12 “(b) (1) (A) Each State listed under subsection (a)
 13 shall within 270 days after the date of promulgation of any
 14 regulation under section 1421 (or, if later, within 270 days
 15 after such State is first listed under subsection (a)) submit
 16 to the Administrator an application which contains a show-
 17 ing satisfactory to the Administrator that the State—

18 “(i) has adopted after reasonable notice and public
 19 hearings, and will implement, an underground injection
 20 control program which meets the requirements of regu-
 21 lations in effect under section 1421; and

22 “(ii) will keep such records and make such reports
 23 with respect to its activities under clause (i) as the Ad-
 24 ministrator may require by regulation.

25 “(B) Within 270 days of any amendment of a regula-

1 tion under section 1421 revising or adding any requirement
 2 respecting State underground injection control programs, each
 3 State listed under subsection (a) shall submit (in such form
 4 and manner as the Administrator may require) a notice to
 5 the Administrator containing a showing satisfactory to him
 6 that the State underground injection control program meets
 7 the revised or added requirement.

8 “(2) Within ninety days after the State’s application
 9 under paragraph (1)(A) or notice under paragraph
 10 (1)(B) and after reasonable opportunity for presentation
 11 of views, the Administrator shall by rule either approve,
 12 disapprove, or approve in part and disapprove in part, the
 13 State’s underground injection control program.

14 “(3) If the Administrator approves the State’s program
 15 under paragraph (2), the State shall have primary enforce-
 16 ment responsibility for underground water sources until such
 17 time as the Administrator determines, by rule, that such
 18 State no longer meets the requirements of clause (i) or (ii)
 19 of paragraph (1)(A) of this subsection.

20 “(4) Before promulgating any rule under paragraph
 21 (2) or (3) of this subsection, the Administrator shall pro-
 22 vide opportunity for public hearing respecting such rule.

23 “(c) If the Administrator disapproves a State’s pro-
 24 gram (or part thereof) under subsection (b)(2) or if a
 25 State fails to submit an application or notice before the date

1 of expiration of the period specified in subsection (b)(1), the
 2 Administrator shall by regulation within 90 days after such
 3 disapproval or expiration date (as the case may be) pre-
 4 scribe (and may from time to time by regulation revise) a
 5 program applicable to such State meeting the requirements
 6 of section 1421(b). Such program may not include re-
 7 quirements which interfere with or impede—

8 “(1) the underground injection of brine or other
 9 fluids which are brought to the surface in connection
 10 with oil or natural gas production, or

11 “(2) any underground injection for the secondary
 12 or tertiary recovery of oil or natural gas,
 13 unless such requirements are essential to assure that under-
 14 ground sources of drinking water will not be endan-
 15 gered by such injection. Such program shall apply in
 16 such State to the extent that a program adopted by such
 17 State which the Administrator determines meets such require-
 18 ments is not in effect. Before promulgating any regulation
 19 under this section, the Administrator shall provide oppor-
 20 tunity for public hearing respecting such regulation.

21 “(d) For purposes of this title, the term ‘applicable
 22 underground injection control program’ with respect to a
 23 State means the program (or most recent amendment
 24 thereof) (1) which has been adopted by the State and
 25 which has been approved under subsection (b), or (2)

1 *which has been prescribed by the Administrator under*
 2 *subsection (c).*

3 *"FAILURE OF STATE TO ASSURE ENFORCEMENT OF*
 4 *PROGRAM*

5 *"SEC. 1423. (a)(1) Whenever the Administrator finds*
 6 *during a period during which a State has primary enforce-*
 7 *ment responsibility for underground water sources (within*
 8 *the meaning of section 1422(b)(3)) that any person who is*
 9 *subject to a requirement of an applicable underground injec-*
 10 *tion control program in such State is violating such require-*
 11 *ment, he shall so notify the State and the person violating*
 12 *such requirement. If the Administrator finds such failure to*
 13 *comply extends beyond the thirtieth day after the date of*
 14 *such notice, he shall give public notice of such finding and*
 15 *request the State to report within 15 days after the date of*
 16 *such public notice as to the steps being taken to bring such*
 17 *person into compliance with such requirement (including*
 18 *reasons for anticipated steps to be taken to bring such person*
 19 *into compliance with such requirement and for any failure*
 20 *to take steps to bring such person into compliance with such*
 21 *requirement). If—*

22 *"(A) such failure to comply extends beyond the*
 23 *sixtieth day after the date of the notice given pursuant*
 24 *to the first sentence of this paragraph, and*

25 *"(B)(i) the State fails to submit the report re-*

1 *quested by the Administrator within the time period pre-*
 2 *scribed by the preceding sentence, or*

3 *"(ii) the State submits such report within such*
 4 *period but the Administrator, after considering the re-*
 5 *port, determines that by failing to take necessary steps*
 6 *to bring such person into compliance by such sixtieth*
 7 *day the State abused its discretion in carrying out pri-*
 8 *mary enforcement responsibility for underground water*
 9 *sources,*

10 *the Administrator may commence a civil action under sub-*
 11 *section (b)(1).*

12 *"(2) Whenever the Administrator finds during a period*
 13 *during which a State does not have primary enforcement*
 14 *responsibility for underground water sources that any person*
 15 *subject to any requirement of any applicable underground*
 16 *injection control program in such State is violating such*
 17 *requirement, he may commence a civil action under subsec-*
 18 *tion (b)(1).*

19 *"(b)(1) When authorized by subsection (a), the Admin-*
 20 *istrator may bring a civil action under this paragraph in*
 21 *the appropriate United States district court to require*
 22 *compliance with any requirement of an applicable under-*
 23 *ground injection control program. The court may enter such*
 24 *judgment as protection of public health may require, includ-*
 25 *ing, in the case of an action brought against a person who*

1 violates an applicable requirement of an underground injection control program and who is located in a State which has
 2 primary enforcement responsibility for underground water
 3 sources, the imposition of a civil penalty of not to exceed
 4 \$5,000 for each day such person violates such requirement
 5 after the expiration of 60 days after receiving notice under
 6 subsection (a) (1).

8 “(2) Any person who violates any requirement of an
 9 applicable underground injection control program to which
 10 he is subject during any period for which the State does
 11 not have primary enforcement responsibility for underground
 12 water sources, shall be subject to a civil penalty of not more
 13 than \$5,000 per day. In addition, if such violation or
 14 failure to comply is willful, such person shall be punished
 15 by a fine of not more than \$5,000 per day.

16 “(c) Nothing in this title shall diminish any authority
 17 of a State or political subdivision to adopt or enforce any
 18 law or regulation respecting underground injection but no
 19 such law or regulation shall relieve any person of any re-
 20 quirement otherwise applicable under this title.

21 “INTERIM REGULATION OF UNDERGROUND INJECTIONS

22 “SEC. 1424. (a) (1) Any person may petition the
 23 Administrator to have an area of a State (or States) desig-
 24 nated as an area in which no new underground injection
 25 well may be operated during the period beginning on the

1 date of the designation and ending on the date on which
 2 the applicable underground injection control program cov-
 3 ering such area takes effect unless a permit for the operation
 4 of such well has been issued by the Administrator under
 5 subsection (b). The Administrator may so designate an area
 6 within a State if he finds that the area has one acqui-
 7 fer which is the sole or principal drinking water source for
 8 the area and which, if contaminated, would create a signifi-
 9 cant hazard to public health.

10 “(2) Upon receipt of a petition under paragraph (1)
 11 of this subsection, the Administrator shall publish it in the
 12 Federal Register and shall provide an opportunity to in-
 13 terested persons to submit written data, views, or arguments
 14 thereon. Not later than the 30th day following the date of
 15 the publication of a petition under this paragraph in the
 16 Federal Register, the Administrator shall either make the
 17 designation for which the petition is submitted or deny the
 18 petition.

19 “(b) (1) During the period beginning on the date an
 20 area is designated under subsection (a) and ending on the
 21 date the applicable underground injection control program
 22 covering such area takes effect, no new underground injection
 23 well may be operated in such area unless the Adminis-
 24 trator has issued a permit for such operation.

25 “(2) Any person may petition the Administrator for the

1 issuance of a permit for the operation of such a well in such
 2 an area. A petition submitted under this paragraph shall be
 3 submitted in such manner and contain such information as
 4 the Administrator may require by regulation. Upon receipt
 5 of such a petition, the Administrator shall publish it in the
 6 Federal Register. The Administrator shall give notice of any
 7 proceeding on a petition and shall provide opportunity for
 8 agency hearing. The Administrator shall act upon such
 9 petition on the record of any hearing held pursuant to the
 10 preceding sentence respecting such petition. Within 120 days
 11 of the publication in the Federal Register of a petition sub-
 12 mitted under this paragraph, the Administrator shall either
 13 issue the permit for which the petition was submitted or shall
 14 deny its issuance.

15 “(3) The Administrator may issue a permit for the
 16 operation of a new underground injection well in an area
 17 designated under subsection (a) only if he finds that the
 18 operation of such well will not cause contamination of the
 19 aquifer of such area so as to create a significant hazard to
 20 public health. The Administrator may condition the issuance
 21 of such a permit upon the use of such control measures in
 22 connection with the operation of such well, for which the
 23 permit is to be issued, as he deems necessary to assure that
 24 the operation of the well will not contaminate the aquifer

1 of the designated area in which the well is located so as to
 2 create a significant hazard to public health.

3 “(c) Any person who operates a new underground in-
 4 jection well in violation of subsection (b) shall be subject
 5 to a civil penalty of not more than \$5,000 for each day in
 6 which such violation occurs. In addition, if such violation is
 7 willful, such person shall be punished by a fine of not more
 8 than \$5,000 for each day in which such violation occurs.
 9 If the Administrator has reason to believe that any person
 10 is violating or will violate subsection (b), he may petition
 11 the United States district court to issue a temporary restrain-
 12 ing order or injunction (including a mandatory injunction)
 13 to enforce such subsection.

14 “(d) For purposes of this section, the term ‘new
 15 underground injection well’ means an underground injection
 16 well whose operation was not approved by appropriate
 17 State and Federal agencies before the date of the enactment
 18 of this title.

19 “PART D—EMERGENCY POWERS

20 “EMERGENCY POWERS

21 “SEC. 1431. (a) Notwithstanding any other pro-
 22 vision of this title, the Administrator, upon receipt of informa-
 23 tion that a contaminant which is present in or is likely to
 24 enter a public water system may present an imminent and

1 *substantial endangerment to the health of persons, and that*
 2 *appropriate State or local authorities have not acted to protect*
 3 *the health of such persons, may take such actions as he may*
 4 *deem necessary in order to protect the health of such persons.*
 5 *Such action may include (but shall not be limited to) (1)*
 6 *issuing such orders as may be necessary to protect the health*
 7 *of persons who are or may be users of such system (including*
 8 *travelers), and (2) commencing a civil action for appro-*
 9 *priate relief, including a restraining order or permanent or*
 10 *temporary injunction.*

11 *“(b) Any person who willfully violates or fails or*
 12 *refuses to comply with any order issued by the Administrator*
 13 *under subsection (a)(1) shall be punished by a fine of not*
 14 *more than \$5,000 per day of violation.*

15 *“PART E—GENERAL PROVISIONS*

16 *“ASSURANCE OF AVAILABILITY OF ADEQUATE SUPPLIES*
 17 *OF CHEMICALS NECESSARY FOR TREATMENT OF WATER*

18 *“SEC. 1441.(a) If any person who uses chlorine, acti-*
 19 *vated carbon, lime, ammonia, soda ash, potassium perman-*
 20 *ganate, caustic soda, or other chemical or substance for the*
 21 *purpose of treating water in any public water system or in*
 22 *any public treatment works determines that the amount of*
 23 *such chemical or substance necessary to effectively treat such*
 24 *water is not reasonably available to him or will not be so*
 25 *available to him when required for the effective treatment of*

1 *such water, such person may apply to the Administrator for*
 2 *a certification (hereinafter in this section referred to as*
 3 *a ‘certification of need’) that the amount of such chemical or*
 4 *substance which such person requires to effectively treat such*
 5 *water is not reasonably available to him or will not be so*
 6 *available when required for the effective treatment of such*
 7 *water.*

8 *“(b)(1) An application for a certification of need shall*
 9 *be in such form and submitted in such manner as the Admin-*
 10 *istrator may require and shall (A) specify the persons the*
 11 *applicant determines are able to provide the chemical or sub-*
 12 *stance with respect to which the application is submitted,*
 13 *(B) specify the persons from whom the applicant has sought*
 14 *such chemical or substance, and (C) contain such other infor-*
 15 *mation as the Administrator may require.*

16 *“(2) Upon receipt of an application under this section,*
 17 *the Administrator shall (A) publish in the Federal Register*
 18 *a notice of the receipt of the application and a brief sum-*
 19 *mary of it, (B) notify in writing each person whom the*
 20 *President or his delegate (after consultation with the Admin-*
 21 *istrator) determines could be made subject to an order*
 22 *required to be issued upon the issuance of the certification*
 23 *of need applied for in such application, and (C) provide an*
 24 *opportunity for the submission of written comments on such*
 25 *application. The requirements of the preceding sentence of*

1 this paragraph shall not apply when the Administrator for
 2 good cause finds (and incorporates the finding with a brief
 3 statement of reasons therefor in the order issued) that waiver
 4 of such requirements is necessary in order to protect the
 5 public health.

6 “(3) Within 30 days after—

7 “(A) the date a notice is published under paragraph
 8 (2) in the Federal Register with respect to an applica-
 9 tion submitted under this section for the issuance of a
 10 certification of need, or

11 “(B) the date on which such application is received
 12 if as authorized by the second sentence of such para-
 13 graph no notice is published with respect to such appli-
 14 cation,

15 the Administrator shall take action either to issue or deny
 16 the issuance of a certification of need.

17 “(c)(1) If the Administrator finds that the amount of
 18 a chemical or substance necessary for an applicant under
 19 an application submitted under this section to effectively
 20 treat water in a public water system or in a public treatment
 21 works is not reasonably available to the applicant or will
 22 not be so available to him when required for the effective
 23 treatment of such water, the Administrator shall issue a
 24 certification of need. Not later than seven days following
 25 the issuance of such certification, the President or his dele-

1 gate shall issue an order requiring the provision to such
 2 person of such amounts of such chemical or substance as the
 3 Administrator deems necessary in the certification of need
 4 issued for such person. Such order shall apply to such manu-
 5 facturers, producers, processors, distributors, and repack-
 6 agers of such chemical or substance as the President or his
 7 delegate deems necessary and appropriate, except that such
 8 order may not apply to any manufacturer, producer, or proc-
 9 essor of such chemical or substance who manufactures, pro-
 10 duces, or processes (as the case may be) such chemical or
 11 substance solely for its own use. Persons subject to an order
 12 issued under this section shall be given a reasonable oppor-
 13 tunity to consult with the President or his delegate with
 14 respect to the implementation of the order.

15 “(2) Orders which are to be issued under paragraph
 16 (1) to manufacturers, producers, and processors of a chemi-
 17 cal or substance shall be equitably apportioned, as far as
 18 practicable, among all manufacturers, producers, and proc-
 19 essors of such chemical or substance; and orders which are
 20 to be issued under paragraph (1) to distributors and re-
 21 packagers of a chemical or substance shall be equitably ap-
 22 portioned, as far as practicable, among all distributors and
 23 repackagers of such chemical or substance. In apportion-
 24 ing orders issued under paragraph (1) to manufacturers,
 25 producers, processors, distributors, and repackagers of

1 chlorine, the President or his delegate shall, in carrying out
2 the requirements of the preceding sentence, consider—

3 “(A) the geographical relationships and established
4 commercial relationships between such manufacturers,
5 producers, processors, distributors, and repackagers and
6 the persons for whom the orders are issued;

7 “(B) in the case of orders to be issued to producers
8 of chlorine, the (i) amount of chlorine historically sup-
9 plied by each such producer to treat water in public
10 water systems and public treatment works, and (ii) share
11 of each such producer of the total annual production of
12 chlorine in the United States; and

13 “(C) such other factors as the President or his dele-
14 gate may determine are relevant to the apportionment of
15 orders in accordance with the requirements of the pre-
16 ceding sentence.

17 “(3) Subject to subsection (f), any person for whom a
18 certification of need has been issued under this subsection may
19 upon the expiration of the order issued under paragraph (1)
20 upon such certification apply under this section for additional
21 certifications.

22 “(d) There shall be available as a defense to any action
23 brought for breach of contract in a Federal or State court
24 arising out of delay or failure to provide, sell, or offer for
25 sale or exchange a chemical or substance subject to an order

1 issued pursuant to subsection (c)(1), that such delay or
2 failure was caused solely by compliance with such order.

3 “(e)(1) Whoever knowingly fails to comply with any
4 order issued pursuant to subsection (c)(1) shall be fined not
5 more than \$5,000 for each such failure to comply.

6 “(2) Whoever fails to comply with any order issued
7 pursuant to subsection (c)(1) shall be subject to a civil
8 penalty of not more than \$2,500 for each such failure to
9 comply.

10 “(3) Whenever the Administrator or the President or
11 his delegate has reason to believe that any person is violating
12 or will violate any order issued pursuant to subsection (c)
13 (1), he may petition a United States district court to issue
14 a temporary restraining order or injunction (including a
15 mandatory injunction) to enforce the provision of such order.

16 “(f) No certification of need or order issued under this
17 section may remain in effect—

18 “(1) for more than one year, or

19 “(2) after June 30, 1977,

20 whichever occurs first.

21 “RESEARCH, TECHNICAL ASSISTANCE, INFORMATION,
22 TRAINING OF PERSONNEL

23 “SEC. 1442. (a)(1) The Administrator may conduct
24 research, studies, and demonstrations relating to the causes,
25 diagnosis, treatment, control, and prevention of physical and

1 *mental diseases and other impairments of man resulting*
 2 *directly or indirectly from contaminants in water, or to the*
 3 *provision of a dependably safe supply of drinking water,*
 4 *including—*

5 “(A) improved methods (i) to identify and meas-
 6 ure the existence of contaminants in drinking water (in-
 7 cluding methods which may be used by State and local
 8 health and water officials), and (ii) to identify the
 9 source of such contaminants;

10 “(B) improved methods to identify and measure
 11 the health effects of contaminants in drinking water;

12 “(C) new methods of treating raw water to prepare
 13 it for drinking, so as to improve the efficiency of water
 14 treatment and to remove contaminants from water;

15 “(D) improved methods for providing a depend-
 16 ably safe supply of drinking water, including improve-
 17 ments in water purification and distribution, and methods
 18 of assessing the health related hazards of drinking water;
 19 and

20 “(E) improved methods of protecting underground
 21 water sources of public water systems from contamina-
 22 tion.

23 “(2) The Administrator shall, to the maximum extent
 24 feasible, provide technical assistance to the States and munici-

1 *palities in the establishment and administration of public*
 2 *water system supervision programs (as defined in section*
 3 *1443(c)(1)).*

4 “(3) The Administrator shall conduct studies, and make
 5 periodic reports to Congress, on the costs of carrying out
 6 regulations prescribed under section 1412.

7 “(4) The Administrator shall conduct a survey and
 8 study of—

9 “(A) disposal of waste (including residential waste)
 10 which may endanger underground water which supplies,
 11 or can reasonably be expected to supply, any public
 12 water systems, and

13 “(B) means of control of such waste disposal.
 14 Not later than one year after the date of enactment of this
 15 title, he shall transmit to the Congress the results of such
 16 survey and study, together with such recommendations as
 17 he deems appropriate.

18 “(5) The Administrator shall carry out a study of
 19 methods of underground injection which do not result in the
 20 degradation of underground drinking water sources.

21 “(6) The Administrator shall carry out a study of
 22 methods of preventing, detecting, and dealing with surface
 23 spills of contaminants which may degrade underground water
 24 sources for public water systems.

1 “(7) The Administrator shall carry out a study of virus
2 contamination of drinking water sources and means of con-
3 trol of such contamination.

4 “(8) The Administrator shall carry out a study of the
5 nature and extent of the impact on underground water which
6 supplies or can reasonably be expected to supply public
7 water systems of (A) abandoned injection or extraction
8 wells; (B) intensive application of pesticides and fertilizers
9 in underground water recharge areas; and (C) ponds, pools,
10 lagoons, pits, or other surface disposal of contaminants in
11 underground water recharge areas.

12 “(b) In carrying out this title, the Administrator is
13 authorized to—

14 “(1) collect and make available information per-
15 taining to research, investigations, and demonstrations
16 with respect to providing a dependably safe supply of
17 drinking water together with appropriate recommenda-
18 tions in connection therewith;

19 “(2) make available research facilities of the Agency
20 to appropriate public authorities, institutions, and indi-
21 viduals engaged in studies and research relating to the
22 purposes of this title;

23 “(3) make grants to, and enter into contracts with,
24 any public agency, educational institution, and any other

1 organization, in accordance with procedures prescribed
2 by the Administrator, under which he may pay all or a
3 part of the costs (as may be determined by the Adminis-
4 trator) of any project or activity which is designed—

5 “(A) to develop, expand, or carry out a pro-
6 gram (which may combine training education and
7 employment) for training persons for occupations
8 involving the public health aspects of providing safe
9 drinking water;

10 “(B) to train inspectors and supervisory per-
11 sonnel to train or supervise persons in occupations
12 involving the public health aspects of providing safe
13 drinking water; or

14 “(C) to develop and expand the capability of
15 programs of States and municipalities to carry out
16 the purposes of this title (other than by carrying
17 out State programs of public water system super-
18 vision or underground water source protection (as
19 defined in section 1443(d))).

20 “(c) There are authorized to be appropriated to carry
21 out the provisions of this section \$15,000,000 for the fiscal
22 year ending June 30, 1975; \$25,000,000 for the fiscal year
23 ending June 30, 1976; and \$35,000,000 for the fiscal year
24 ending June 30, 1977.

1 "GRANTS FOR STATE PROGRAMS

2 "SEC. 1443. (a)(1) From allotments made pursuant to
3 paragraph (4), the Administrator may make grants to States
4 to carry out public water system supervision programs.

5 "(2) No grant may be made under paragraph (1) un-
6 less an application therefor has been submitted to the Admin-
7 istrator in such form and manner as he may require. The
8 Administrator may not approve an application of a State for
9 its first grant under paragraph (1) unless he determines that
10 the State—

11 "(A) has established or will establish within one
12 year from the date of such grant a public water system
13 supervision program, and

14 "(B) will, within that one year, assume primary
15 enforcement responsibility for public water systems
16 within the State.

17 No grant may be made to a State under paragraph (1) for
18 any period beginning more than one year after the date of the
19 State's first grant unless the State has assumed primary en-
20 forcement responsibility for public water systems within the
21 State.

22 "(3) A grant under paragraph (1) shall be made to
23 cover not more than 75 per centum of the grant recipient's
24 costs (as determined under regulations of the Administrator)
25 in carrying out, during the one-year period beginning on the

1 date the grant is made, a public water system supervision
2 program.

3 "(4) In each fiscal year the Administrator shall, in ac-
4 cordance with regulations, allot the sums appropriated for
5 such year under paragraph (5) among the States on the basis
6 of population, geographical area, number of public water
7 systems, and other relevant factors. To the extent the appli-
8 cable appropriation permits, the allotment of a State for
9 any fiscal year shall not be less than \$50,000.

10 "(5) For purposes of making grants under paragraph
11 (1) there are authorized to be appropriated \$15,000,000
12 for the fiscal year ending June 30, 1976, and \$25,000,000
13 for the fiscal year ending June 30, 1977.

14 "(b)(1) From allotments made pursuant to paragraph
15 (4), the Administrator may make grants to States to carry
16 out underground water source protection programs.

17 "(2) No grant may be made under paragraph (1) unless
18 an application therefor has been submitted to the Admin-
19 istrator in such form and manner as he may require. The Ad-
20 ministrator may not approve an application of a State for its
21 first grant under paragraph (1) unless he determines
22 that the State—

23 "(A) has established or will establish within two
24 years from the date of such grant an underground water
25 source protection, and

1 “(B) will, within such two years, assume primary
2 enforcement responsibility for underground water
3 sources within the State.

4 No grant may be made to a State under paragraph (1)
5 for any period beginning more than two years after the
6 date of the State's first grant unless the State has assumed
7 primary enforcement responsibility for underground water
8 sources within the State.

9 “(3) A grant under paragraph (1) shall be made
10 to cover not more than 75 per centum of the grant recipient's
11 costs (as determined under regulations of the Administrator)
12 in carrying out, during the one-year period beginning on the
13 date the grant is made, an underground water source pro-
14 tection program.

15 “(4) In each fiscal year the Administrator shall, in
16 accordance with regulations, allot the sums appropriated for
17 such year under paragraph (5) among the States on the
18 basis of population, geographical area, and other relevant
19 factors.

20 “(5) For purposes of making grants under paragraph
21 (1) there are authorized to be appropriated \$5,000,000 for
22 the fiscal year ending June 30, 1976, and \$7,500,000 for the
23 fiscal year ending June 30, 1977.

24 “(c) For purposes of this section:

25 “(1) The term ‘public water system supervision

1 *program' means a program for the adoption and en-*
2 *forcement of drinking water regulations (with such vari-*
3 *ances and exemptions from such regulations under con-*
4 *ditions and in a manner which is not less stringent than*
5 *the conditions under, and the manner in, which variances*
6 *and exemptions may be granted under sections 1415 and*
7 *1416) which are no less stringent than the national pri-*
8 *mary drinking water regulations under section 1412,*
9 *and for keeping records and making reports required by*
10 *section 1413(a)(3).*

11 “(2) The term ‘underground water source protec-
12 tion program’ means a program for the adoption and
13 enforcement of a program which meets the requirements
14 of regulations under section 1421 and for keeping rec-
15 ords and making reports required by section 1422(b)
16 (1)(A)(ii).

17 "SPECIAL STUDY AND DEMONSTRATION PROJECT GRANTS;
18 GUARANTEED LOANS

19 “SEC. 1444. (a) *The Administrator may make grants*
20 *to any person for the purposes of—*

21 “(1) assisting in the development and demonstra-
22 tion (including construction) of any project which will
23 demonstrate a new or improved method, approach, or
24 technology for providing a dependably safe supply of
25 drinking water to the public; and

1 “(2) assisting in the development and demonstra-
2 tion (including construction) of any project which will
3 investigate and demonstrate health implications involved
4 in the reclamation, recycling, and reuse of waste waters
5 for drinking and the processes and methods for the prep-
6 aration of safe and acceptable drinking water.

7 “(b) Grants made by the Administrator under this
8 section shall be subject to the following limitations:

9 “(1) Grants under this section shall not exceed
10 66 $\frac{2}{3}$ per centum of the total cost of construction of any
11 facility and 75 per centum of any other costs, as deter-
12 mined by the Administrator.

13 “(2) Grants under this section shall not be made
14 for any project involving the construction or modifica-
15 tion of any facilities for any public water system in a
16 State unless such project has been approved by the State
17 agency charged with the responsibility for safety of
18 drinking water (or if there is no such agency in a
19 State, by the State health authority).

20 “(3) Grants under this section shall not be made
21 for any project unless the Administrator determines,
22 after consulting the National Drinking Water Advisory
23 Council, that such project will serve a useful purpose
24 relating to the development and demonstration of new

1 or improved techniques, methods, or technologies for the
2 provision of safe water to the public for drinking.

3 “(4) Priority for grants under this section shall be
4 given where there are known or potential public health
5 hazards which require advanced technology for the re-
6 moval of particles which are too small to be removed by
7 ordinary treatment technology.

8 “(c) For the purposes of making grants under subsec-
9 tions (a) and (b) of this section there are authorized to
10 be appropriated \$7,500,000 for the fiscal year ending
11 June 30, 1975; and \$7,500,000 for the fiscal year ending
12 June 30, 1976; and \$10,000,000 for the fiscal year ending
13 June 30, 1977.

14 “(d) The Administrator during the fiscal years ending
15 June 30, 1975, and June 30, 1976, shall carry out a pro-
16 gram of guaranteeing loans made by private lenders to small
17 public water systems for the purpose of enabling such sys-
18 tems to meet national primary drinking water regulations
19 (including interim regulations) prescribed under section
20 1412. No such guarantee may be made with respect to a
21 system unless (1) such system cannot obtain financial assist-
22 ance necessary to comply with such regulations from any
23 other source, and (2) the Administrator determines that
24 any facilities constructed with a loan guaranteed under this

1 subsection is not likely to be made obsolete by subsequent
 2 changes in primary regulations. The aggregate amount of
 3 indebtedness guaranteed with respect to any system may not
 4 exceed \$10,000. The aggregate amount of indebtedness guar-
 5 anteed under this subsection may not exceed \$10,000,000.
 6 The Administrator shall prescribe regulations to carry out
 7 this subsection.

8 "RECORDS AND INSPECTIONS

9 "SEC. 1445. (a) Every person who is a supplier of
 10 water, who is or may be otherwise subject to a primary
 11 drinking water regulation prescribed under section 1412
 12 or to an applicable underground injection control pro-
 13 gram (as defined in section 1422(c)), who is or may be
 14 subject to the permit requirement of section 1424 or to
 15 an order issued under section 1441, or who is a grantee,
 16 shall establish and maintain such records, make such re-
 17 ports, conduct such monitoring, and provide such informa-
 18 tion as the Administrator may reasonably require by regu-
 19 lation to assist him in establishing regulations under this
 20 title, in determining whether such person has acted or is
 21 acting in compliance with this title, or in administering
 22 any program of financial assistance under this title.

23 "(b) The Administrator, or representatives of the Ad-
 24 ministrator duly designated by him, upon presenting appro-
 25 priate credentials and a written notice to any supplier of

1 water or other person subject to a primary drinking water
 2 regulation prescribed under section 1412 or applicable
 3 underground injection control program (or person in charge
 4 of any of the property of such supplier or other person),
 5 is authorized to enter any establishment or facility or other
 6 property of such supplier or other person in order to
 7 determine whether such supplier or other person has acted
 8 or is acting in compliance with this title, including for this
 9 purpose, inspection, at reasonable times, of records, files,
 10 papers, processes, controls, and facilities, or in order to
 11 test any feature of a public water system, including its
 12 raw water source. The Administrator or the Comptroller
 13 General (or any representative designated by either) shall
 14 have access for the purpose of audit and examination to any
 15 records, reports, or information of a grantee which are re-
 16 quired to be maintained under subsection (a) or which are
 17 pertinent to any financial assistance under this title.

18 "(c) Whoever fails or refuses to comply with any re-
 19 quirement of subsection (a) or to allow the Administrator,
 20 the Comptroller General, or representatives of either, to
 21 enter and conduct any audit or inspection authorized by sub-
 22 section (b) shall be fined not more than \$5,000.

23 "(d)(1) Subject to paragraph (2), upon a showing
 24 satisfactory to the Administrator by any person that any
 25 information required under this section from such person,

1 *if made public, would divulge trade secrets or secret processes*
 2 *of such person, the Administrator shall consider such infor-*
 3 *mation confidential in accordance with the purposes of section*
 4 *1905 of title 18 of the United States Code. If the applicant*
 5 *fails to make a showing satisfactory to the Administrator, the*
 6 *Administrator shall give such applicant thirty days' notice*
 7 *before releasing the information to which the application*
 8 *relates (unless the public health or safety requires an earlier*
 9 *release of such information).*

10 *"(2) Any information required under this section may*
 11 *be disclosed (1) to other officers, employees, or authorized*
 12 *representatives of the United States concerned with carrying*
 13 *out this title, (2) when relevant in any proceeding under this*
 14 *title, or (3) to the extent it deals with the level of contaminants*
 15 *in drinking water. For purposes of this subsection the term*
 16 *'information required under this section' means any papers,*
 17 *books, documents, or information, or any particular part*
 18 *thereof, reported to or otherwise obtained by the Administrator*
 19 *under this section.*

20 *"(e) For purposes of this section, (1) the term 'grantee'*
 21 *means any person who applies for or receives financial assist-*
 22 *ance, by grant, contract, or loan guarantee under this title,*
 23 *and (2) the term 'person' includes a Federal agency.*

1 *"NATIONAL DRINKING WATER ADVISORY COUNCIL*

2 *"SEC. 1446. (a)(1) There is established a National*
 3 *Drinking Water Advisory Council which shall consist of*
 4 *fifteen members appointed by the Administrator after con-*
 5 *sultation with the Secretary. Five members shall be ap-*
 6 *pointed from the general public; five members shall be*
 7 *appointed from appropriate State and local agencies con-*
 8 *cerned with water hygiene and public water supply; and five*
 9 *members shall be appointed from representatives of private*
 10 *organizations or groups demonstrating an active interest in*
 11 *the field of water hygiene and public water supply. Each*
 12 *member of the Council shall hold office for a term of three*
 13 *years, except that—*

14 *"(1) any member appointed to fill a vacancy*
 15 *occurring prior to the expiration of the term for which*
 16 *his predecessor was appointed shall be appointed for*
 17 *the remainder of such term; and*

18 *"(2) the terms of the members first taking office*
 19 *shall expire as follows: Five shall expire three years*
 20 *after the date of enactment of this title, five shall expire*
 21 *two years after such date, and five shall expire one year*
 22 *after such date, as designated by the Administrator at*
 23 *the time of appointment.*

1 *The members of the Council shall be eligible for reappoint-*
2 *ment.*

3 *“(b) The Council shall advise, consult with, and make*
4 *recommendations to, the Administrator on matters relating*
5 *to activities, functions, and policies of the Agency under this*
6 *title.*

7 *“(c) Members of the Council appointed under this*
8 *section shall, while attending meetings or conferences of the*
9 *Council or otherwise engaged in business of the Council,*
10 *receive compensation and allowances at a rate to be fixed*
11 *by the Administrator, but not exceeding the daily equivalent*
12 *of the annual rate of basic pay in effect for grade GS-18*
13 *of the General Schedule for each day (including travel-*
14 *time) during which they are engaged in the actual per-*
15 *formance of duties vested in the Council. While away from*
16 *their homes or regular places of business in the performance*
17 *of services for the Council, members of the Council shall*
18 *be allowed travel expenses, including per diem in lieu of*
19 *subsistence, in the same manner as persons employed inter-*
20 *mittently in the Government service are allowed expenses*
21 *under section 5703(b) of title 5 of the United States Code.*

22 *“(d) Section 14(a) of the Federal Advisory Commit-*
23 *tee Act (relating to termination) shall not apply to the*
24 *Council.*

1 *“FEDERAL AGENCIES*

2 *“SEC. 1447. (a) Each Federal agency having jurisdic-*
3 *tion over any federally owned or maintained public water*
4 *system shall comply with all national primary drinking*
5 *water regulations in effect under section 1412.*

6 *“(b)(1) Each Federal agency shall comply with any*
7 *applicable underground injection control program, and shall*
8 *keep such records and submit such reports as may be required*
9 *under such program.*

10 *“(2) The Administrator shall waive compliance with*
11 *paragraph (1) of this subsection upon request of the Secre-*
12 *tary of Defense and upon a determination by the President*
13 *that the requested waiver is necessary in the interest of*
14 *national security. The Administrator shall maintain a written*
15 *record of the basis upon which such waiver was granted and*
16 *make such record available for in camera examination when*
17 *relevant in a judicial proceeding under this title. Upon the*
18 *issuance of such a waiver, the Administrator shall publish*
19 *in the Federal Register a notice that the waiver was granted*
20 *for national security purposes, unless, upon the request of the*
21 *Secretary of Defense, the Administrator determines to omit*
22 *such publication because the publication itself would be con-*
23 *trary to the interests of national security, in which event the*

1 Administrator shall submit notice to the Armed Services Com-
2 mittee of the Senate and House of Representatives.

3 "GENERAL PROVISIONS

4 "SEC. 1448. (a)(1) The Administrator is authorized
5 to prescribe such regulations as are necessary or appro-
6 priate to carry out his functions under this title.

7 "(2) The Administrator may delegate any of his func-
8 tions under this title (other than prescribing regulations)
9 to any officer or employee of the Agency.

10 "(b) The Administrator, with the consent of the head
11 of any other agency of the United States, may utilize such
12 officers and employees of such agency as he deems necessary
13 to assist him in carrying out the purposes of this title.

14 "(c) Upon the request of a State or interstate agency,
15 the Administrator may assign personnel of the Agency to
16 such State or interstate agency for the purposes of carrying
17 out the provisions of this title.

18 "(d)(1) The Administrator may make payments of
19 grants under this title (after necessary adjustment on ac-
20 count of previously made underpayments or overpayments)
21 in advance or by way of reimbursement, and in such install-
22 ments and on such conditions as he may determine.

23 "(2) Financial assistance may be made available in the
24 form of grants only to individuals and nonprofit agencies or
25 institutions. For purposes of this paragraph, the term 'non-

1 profit agency or institution' means an agency or institution
2 no part of the net earnings of which inure, or may lawfully
3 inure, to the benefit of any private shareholder or individual.

4 "(e) The Administrator shall take such action as may
5 be necessary to assure compliance with provisions of the Act
6 of March 3, 1931 (known as the Davis-Bacon Act; 40
7 U.S.C. 276a-276a(5)). The Secretary of Labor shall have,
8 with respect to the labor standards specified in this subsection,
9 the authority and functions set forth in Reorganization Plan
10 Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and
11 section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

12 "(f) The Administrator shall request the Attorney
13 General to appear and represent him in any civil action
14 instituted under this title to which the Administrator is a
15 party. Unless, within a reasonable time, the Attorney Gen-
16 eral notifies the Administrator that he will appear in such
17 action, attorneys appointed by the Administrator shall ap-
18 pear and represent him.

19 "(g) The provisions of this title shall not be construed
20 as affecting any authority of the Administrator under part
21 G of title III of this Act.

22 "(h) Not later than April 1 of each year, the Admin-
23 istrator shall submit to the Congress a report respecting the
24 activities of the Agency under this title and containing
25 such recommendations for legislation as he considers neces-

1 sary. The report of the Administrator under this subsection
 2 which is due not later than April 1, 1975, and each subse-
 3 quent report of the Administrator under this subsection
 4 shall include a statement on the actual and anticipated cost
 5 to public water systems in each State of compliance with
 6 the requirements of this title. The Office of Management
 7 and Budget may review any report required by this sub-
 8 section before its submission to Congress, but the Office may
 9 not revise any such report, require any revision in any such
 10 report, or delay its submission beyond the day prescribed
 11 for its submission, and may submit to Congress its com-
 12 ments respecting any such report."

13 (b) Section 2(f) of the Public Health Service Act
 14 is amended by inserting "(1)" after "except that" and by
 15 inserting before the semicolon at the end thereof the fol-
 16 lowing: ", and (2) as used in title XIV such term includes
 17 Guam, American Samoa, and the Trust Territory of the
 18 Pacific Islands".

19 RURAL WATER SURVEY

20 SEC. 3. (a) The Administrator of the Environmental
 21 Protection Agency shall (after consultation with the Secre-
 22 tary of Agriculture and the several States) enter into
 23 arrangements with public or private entities as may be
 24 appropriate to conduct a survey of the quantity, quality, and
 25 availability of rural drinking water supplies. Such survey

1 shall include, but not be limited to, the consideration of the
 2 number of residents in each rural area—

3 (1) presently being inadequately served by a pub-
 4 lic or private drinking water supply system, or by an
 5 individual home drinking water supply system;

6 (2) presently having limited or otherwise inadequate
 7 access to drinking water;

8 (3) who, due to the absence or inadequacy of a
 9 drinking water supply system, are exposed to an in-
 10 creased health hazard; and

11 (4) who have experienced incidents of chronic or
 12 acute illness, which may be attributed to the absence or
 13 inadequacy of a drinking water supply system.

14 (b) Such survey shall be completed within eighteen
 15 months of the date of enactment of this Act and a final report
 16 thereon submitted, not later than six months after the com-
 17 pletion of such survey, to the President for transmittal to the
 18 Congress. Such report shall include recommendations for
 19 improving rural water supplies.

20 (c) There are authorized to be appropriated to carry
 21 out the provisions of this section \$1,000,000 for the fiscal
 22 year ending June 30, 1975; \$2,000,000 for the fiscal year
 23 ending June 30, 1976; and \$1,000,000 for the fiscal year
 24 ending June 30, 1977.

BOTTLED DRINKING WATER

SEC. 4. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 409 the following new section:

"BOTTLED DRINKING WATER STANDARDS

"SEC. 410. Whenever the Administrator of the Environmental Protection Agency prescribes interim or revised national primary drinking water regulations under section 1412 of the Public Health Service Act, the Secretary shall consult with the Administrator and within 180 days after the promulgation of such drinking water regulations either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register his reasons for not making such amendments."

Union Calendar No. 565

93^d CONGRESS
2^d SESSION

H. R. 13002

[Report No. 93-1185]

A BILL

To amend the Public Health Service Act to assure that the public is provided with safe drinking water, and for other purposes.

By Mr. ROGERS, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, Mr. HUDNUT, Mr. GUNTER, and Mr. ROBISON of New York

FEBRUARY 21, 1974

Referred to the Committee on Interstate and Foreign Commerce

JULY 10, 1974

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

file

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: ROY L. ASH

SUBJECT: Safe Drinking Water Legislation

Issue: The House will debate this week a bill to regulate the quality of public drinking water that pre-empts State authorities in this area. Should the Administration opposition include threat of veto, and/or compromise that accepts some undesirable State grants in lieu of pre-emption?

Background: The Congress for several years has been working on a drinking water standards and enforcement bill that injects the Federal Government for the first time into regulating the quality of drinking water not used in interstate commerce. Last year, to declare a position, the Administration sponsored a bill that would authorize promulgation of Federal standards for public drinking water based on health (not aesthetic) effects, and required water users to be notified of any failures by suppliers to meet the standard. Enforcement was to be achieved through citizen action or State action, without Federal intervention except in case of clear emergencies threatening public health. The cost of meeting and enforcing standards was to be borne by water purchasers - as is now the case.

The Senate passed a bill last year that substantially exceeds the Administration position. The House has now reported and will debate this week, a bill that: (1) establishes Federal standards for all aspects of water purification activities, (2) pre-empts State and local enforcement authorities, replacing them with a Federal enforcement system that can be delegated to States, (3) provides Federal grant programs to pay State enforcement and administrative costs, plus training and demonstration, and (4) establishes a Federal regulatory program for underground waste injection. (See my letter to Congressman Rhodes - attached - for detailed comparison.)

Believing that you should not be faced with a difficult choice on an enrolled "Safe Drinking Water" act this year, we have attempted to sidetrack the House bill through negotiation in Committee and with the leadership (e.g., the Rhodes letter) but have met with little success. The bill goes to Rules Wednesday and (likely) debate Thursday. In order to generate a credible floor fight, we need your strong backing

including authorization to threaten veto unless significant improvements are made. Alternative floor strategies are to: (1) push for amendments that would return the House bill to the Administration-sponsored provisions, and (2) offer to compromise the State grants issue in return for achieving the Administration posture on the other three issues.

Alternative No. 1 is clearly preferable, though not likely to succeed. State governments would support Alternative No. 2, and we may be able to hold it to relatively minor budget impact (\$50 million or so.)

Recommendation: That we push for Alternative No. 1 as first choice, suggesting possibility of a veto. That we offer Alternative No. 2 as an acceptable outcome.

Attachment

_____ Approve as recommended.

_____ See me.

CC:

DO Records

Director's Chron

Director

~~Deputy~~ Director

Mr. Eberle

Mr. Zarb

Mr. Crabill

Mr. Tozzi

Mr. Hezir

NRD/EnBr

NRD/DCrabill/kj 9/9/74

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 30 1974

Honorable John J. Rhodes
Minority Leader
House of Representatives
Washington, D.C. 20515

Dear Congressman Rhodes:

I am writing to express our opposition to the Safe Drinking Water legislation soon to be taken up on the floor of the House of Representatives.

As you are aware, this bill is the latest in a series of legislative actions that has the effect of pre-empting State and local government powers and replacing them with new Federal regulatory programs in the environmental area. True to the recent pattern, this bill provides that the pre-empted State and local powers can be returned to them through delegation by a Federal official, but only if the State meets the conditions established by that official. The powers then exercised by the States are considered Federal powers, and are subject to review and revocation by Federal officials. While we can take great pride in our efforts to upgrade the quality of the nation's environment, we must be equally concerned with this growing trend of pre-emption of the powers of State and local governments.

Common to the Administration's legislative proposals is the principle that the Federal Government would establish National environmental standards but that State and local governments were to remain fully in control of designing the programs necessary to meet the standards and were to retain the primary enforcement responsibility. This

principle would provide for local control, close to the source of the problem, and also would allow for flexibility in meeting each set of specific local needs. Nonetheless, in nearly every case legislation clearing Congress has changed those proposals so as to strengthen the powers of the Federal bureaucracy at the expense of the States, in the manner described above. This trend runs counter to our shared views concerning the proper relationship between Federal and State government.

On March 7, 1973, the Administration introduced Safe Drinking Water legislation in the Congress. This legislation was designed to balance the Administration's concern for the safety of users of the nation's public drinking water supplies with the concern for the rights of the States and localities to manage their own internal programs. The Administration clearly recognized the need for guidance at the Federal level - guidance to define drinking water quality standards adequate to protect the public health, regardless of location. However, the Administration, in keeping with its perspective on the role of State and local governments, proposed no pre-emption of inspection, monitoring, or enforcement authority and would have restrained the tendency for Federal regulation of every individual locality. It was the Administration's expectation then, and remains so now, that inspection, monitoring, and enforcement of drinking water quality would be adequately served by the States and localities, with the full support of the water-consuming public.

What has since become of this balanced approach? The Senate has passed a bill last year which could conceivably result in the detailed regulation of all drinking water supplies from Washington. The bill to be taken up soon on the floor of the House of Representatives, would, in some respects, go further than the Senate. The House bill would provide for Federal establishment of

standards for all drinking water, as would the Administration's original proposal. The House bill, however, in addition would provide for Federal regulation of the manner in which each water treatment plant is to be run, the quality and quantity of supplies of water to each plant, and even the location of every new plant. This bill would also start a new program, managed by the Federal bureaucracy, to regulate injection wells.

In addition to the comprehensive scope of Federal regulation, the House bill would also curb the enforcement powers and responsibilities of the States. The language pays lip service to the principle that States should have primary enforcement responsibility, but the big club is left with the Federal government. Once the fine print is read, it indicates that the States can have enforcement powers only if it is delegated to them by the Administrator of the Federal Environmental Protection Agency, after meeting terms and conditions to be defined by him. The Federal Environmental Protection Agency also retains transaction by transaction review authority, veto power over State variances and exemptions, and authority to revoke delegation to States.

The question we must jointly address now is "where do we draw the line?" Through controls on water supply and treatment plant location the present bill could further promote the creeping Federal involvement in land use control, an area traditionally part of State and local domain. The present bill will result in Federal regulation of every aspect of over 40,000 local water treatment plants, previously under local and State purview. Finally, the present bill will pre-empt traditional State powers of enforcement, to rightfully return them only if the State meets certain "qualifications." Undoubtedly, this bill is another step in the direction of reducing State and local governments to be mere caretakers for the bureaucracy in Washington.

Clearly, we must act now if we wish to avoid this situation. It will not be easy, as those engaged in this effort will surely charge that this Administration is opposed to insuring the safety of the nation's drinking water. It is important to note, however, that the Administration initiated this drive to protect the public health through regulation of drinking water quality, with the introduction of a bill over 16 months ago. The Administration remains dedicated to protection of the public health, but we remain opposed to those who would use this Administration's commitment as a lever to so unnecessarily inflate the power of the Federal bureaucracy at the expense of States, localities, and ultimately the American public.

Attached you will find a summarized comparison of the Administration and House bills. Based on this information, and your own detailed analysis, I hope you will concur with my concerns regarding the seriousness of this problem. If you believe, as I do, that the time has come to draw the line, let me assure you that you have my full and complete support in any effort which you may undertake.

Thank you for your leadership in addressing this most serious issue.

Sincerely,

(Signed) Roy

Roy L. Ash
Director

Enclosure

The Administration's Safe Drinking Water Bill

Federal Standards

The Administration's bill does provide for the promulgation by the Federal Government of standards which would provide protection of public health.

The Administration's bill does not provide for Federal regulation of intake water to the treatment plants, the manner in which the plants are operated, and the location of new plants. The detailed operation of treatment plants cannot be regulated from Washington; the location of plants is a local land use decision.

Enforcement

The Administration's bill provides for Federal enforcement only in cases of imminent hazard. The Administration's bill requires that consumers be notified by water suppliers in the event of non-compliance with the standards. In all cases, the States have primary enforcement responsibilities.

The Administration's bill does not pre-empt the State's right of enforcement, only to be returned by a decision of the Federal bureaucracy. The Administration's bill does not allow Federal enforcement agents to walk into local jurisdictions.

Our belief is that States, localities, and an informed citizenry, through the use of the provision for citizen suits, will take strong, forceful actions to safeguard the quality of water that informed citizens consume directly, without Federal intervention.

Protection of Underground Sources of Drinking Water

The Administration's bill does not provide for regulation of all injection wells throughout the country. Because of the great differences of circumstances throughout the country, our view is that this is a problem that can be handled only at the local level.

Comparative Outline of Drinking Water Bills

(7/17/74)

Standards



Administration Bill HR 5368

House Bill (7/10/74) HR 13002

em

Primary Standards

A. Timing

Interim

Propose

None

180 days

Implement

None

1 yr. + 180 days

Revised (Permanent)

Propose

As soon as practicable

2 years + 280 days

Implement

As soon as practicable

3 years + 280 days

B. Scope

Contaminants

Maximum levels

Levels or treatment technology

Supply system

No standards

Intake WQ stds. (Optional)

Operations

No standards

Operation, maintenance stds.

Location

No standards

Regulations to insure continuous supplies

Quality control

Monitoring, reporting

Monitoring, reporting

Aesthetic Standards

Timing

Propose

Optional

270 days

Implement

Optional

1 year

ENFORCEMENT



Administration Bill

HR 5368

House Bill (7/10/74)

HR 13002

tem

minent Hazard

EPA requests Justice to
commence civil action

Administration may commence
civil action; may also issue
orders (for information and
public notice, and also to
provide alternative supplies)

primary Standards

Conditions for States
to assume primary
enforcement responsibility

None

- (1) Adopt standards similar
to EPA's
- (2) Adopt surveillance and
enforcement procedures
- (3) Adopt guidelines for
variances and exemptions
(all subject to EPA
approval)

Enforcement (State has
primary responsibility

Water suppliers to notify
users of violations; no
Federal enforcement,
just oversight

After noncompliance of 30
days, State has 60 days to
act. If it doesn't, EPA
can commence civil action

Administration Bill
HR 5368

House Bill (7/10/74)
HR 13002

Enforcement (State
doesn't have primary
responsibility)

Same as above

EPA can commence civil action

Water Quality Standards

No enforcement

EPA to notify State of
non-compliance

Variances

None

- State can grant variances
in two cases

(1) supplier cannot comply
with water intake
standards

(2) recommended treatment
is not needed because
of clean supplies

- Subject to EPA review and
revocation

- EPA has variance powers
where State doesn't have
enforcement responsibility

- Based on economic factors
(existing systems only)

- State must prescribe
schedule of compliance

- Subject to EPA review
and revocation

- EPA has exemption powers
where State doesn't have
primary enforcement
responsibility

Options

None

OTHER ASPECTS

Administration Bill
HR 5368

House Bill (7/10/74)
HR 13002



ection of underground
rces of drinking water

Not included

State regulatory and permit
program. Primary State
enforcement responsibility
backed up by EPA

gency Chemical
ccation program

Not included

Chlorine and other chemicals
for water and ~~stewat~~
treatment

arch

Technical assistance,
information

Technical assistance, in-
formation, training

l water survey

Not required

Study required in 18 months

led drinking water

Not included

Secretary of HEW must
publish regulations similar
to EPA's, or publish reasons
for not doing so

ral facilities

Comply with health standards,
and to extent practicable
with aesthetic standards

Comply with health standards,
and to extent practicable
with aesthetic standards..
Also comply with under-
ground injection regulations



Administration Bill
HR 5368

House Bill (7/10/74)
HR 13002

ional Drinking Water
ouncil

Not required

Required

onstration grants

Not required

2/3 construction costs

ogram grants

Not required

75 percent of State costs

COMPARISON OF COST ESTIMATES

6

(\$ millions)						
<u>Bill</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>Total</u>
HR 5368	9.0	15.0	20.0	20.0	20.0	84.0
HR 13002	21.8	61.4	78.3	91.3	100.3	353.1
S 433	33.0	56.0	76.3	81.0	88.0	334.3

HR 5368

<u>Activity</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Standards	0.3	0.5	0.5	0.5	0.5
Monitoring & enforcement	1.6	2.5	2.5	3.5	4.1
Imminent hazards	0.6	1.0	1.0	1.0	1.2
Research, technical assistance	<u>6.5</u>	<u>11.0</u>	<u>16.0</u>	<u>15.0</u>	<u>14.2</u>
	9.0	15.0	20.0	20.0	20.0

HR 13002

Standards	1.7	2.4	2.5	2.5	3.5
Monitoring & enforcement	3.6	9.4	12.0	15.0	15.0
Emergency powers	0.6	1.2	1.2	1.2	1.2
Research, demonstration, technical assistance	15.3	36.7	48.0	48.0	46.0
Program grants	<u>0.6</u>	<u>11.7</u>	<u>14.6</u>	<u>24.6</u>	<u>34.6</u>
	21.8	61.4	78.3	91.3	100.3



WHIP ADVISORIES

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Number Two Hundred Ninety-Three

September 4, 1974

SAFE DRINKING WATER ACT (H.R. 13002)

The House next Thursday, September 12, or Friday, September 13, is scheduled to consider legislation to provide for safe drinking water.

ACTION BY 93RD CONGRESS

- Reported by Interstate and Foreign Commerce Committee June 20 (voice)
- Rules Committee meets Wednesday, September 11
- S. 433, comparable bill, passed Senate June 22, 1973 (voice)
- Floor Manager: Chairman Staggers

BILL SUMMARY

H.R. 13002 would add to the Public Health Services Act a new Title XIV --Safety of Public Water Systems. The bill would (1) authorize the Administrator of the Environmental Protection Agency to prescribe drinking water regulations applicable to community drinking water suppliers, which would protect public health to the maximum extent feasible; (2) authorize States to be primarily responsible for assuring compliance with such regulations; (3) authorize States which have assumed primary enforcement responsibility to grant variances and exemptions from the national regulations; (4) authorize the Administrator to enforce national regulations if a State abuses its discretion by failing to take proper enforcement action; (5) establish a Federal-State system to protect underground sources of drinking water; (6) provide for State program grants, and for loan guarantees, and research and demonstration grants; (7) authorize Commerce Department on certification of the Administrator, to order chlorine producers and distributors to supply public water systems, which otherwise cannot obtain necessary supplies.

BACKGROUND

Present Federal authority to regulate the quality of drinking water is limited in two respects: (1) Federal standards may apply only to drinking water supplies used by common carriers; and (2) these standards may apply only to contaminants causing communicable disease. Recent studies by GAO and EPA indicate that many community drinking water systems supply drinking water which is inadequate to protect the public's health. Under existing law, no Federal regulatory or enforcement action may be taken.

Hearings were held on similar bills in 1971, 1972, and 1973. S. 433, the Senate-passed bill, differs from H.R. 13002 in that (1) S. 433 authorizes citizen suits to enforce the Act; (2) S. 433 contains no provision for States to grant variances and exemptions from the Federal regulations; (3) S. 433 contains no provision for protection of underground drinking water sources; (4) S. 433 contains broader authority for EPA enforcement action than H.R. 13002; (5) S. 433 contains no authority for EPA to require use of the best available treatment methods for contaminants which cannot feasibly be monitored in drinking water; and (6) S. 433 contains no provisions to assure an adequate chlorine supply for public water system. The Administration's bill, H.R. 5368, also provides for establishment of nationwide drinking water standards for protection of health. However, H.R. 5368 relies exclusively on State enforcement, public notice, and citizen suits to obtain compliance with these standards. Federal enforcement would be authorized only in case of imminent hazards. H.R. 5368 contains no provision for protection of underground drinking water sources. It authorizes necessary sums.

COST

Authorizations for three years total \$156.5 million as follows: For fiscal 1975, \$23.5 million; for fiscal 1976, \$54.5 million; and for fiscal 1977, \$78.5 million.