(b) "Party in interest" defined

For the purposes of this section the term "party in interest" means:

(1) any director, officer, partner, or employee responsible for management or administration of a health maintenance organization, any person who is directly or indirectly the beneficial owner of more than 5 per centum of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 per centum of the health maintenance organization, and, in the case of a health maintenance organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

(2) any entity in which a person described in paragraph (1)—

(A) is an officer or director;

(B) is a partner (if such entity is organized as a partnership);

(C) has directly or indirectly a beneficial interest of more than 5 per centum of the equity; or

(D) has a mortgage, deed of trust, note, on other interest valuing more than 5 per centum of the assets of such entity;

(3) any person directly or indirectly controlling, controlled by, or under common control with a health maintenance organization; and

(4) any spouse, child, or parent of an individual described in paragraph (1).

(c) Information availability

Each health maintenance organization shall make the information reported pursuant to subsection (a) available to its enrollees upon reasonable request.

(d) Evaluation of transactions

The Secretary shall, as he deems necessary, conduct an evaluation of transactions reported to the Secretary under subsection (a)(3) for the purpose of determining their adverse impact, if any, on the fiscal soundness and reasonableness of charges to the health maintenance organization with respect to which they transpired. The Secretary shall evaluate the reported transactions of not less than five, or if there are more than twenty health maintenance organizations reporting such transactions, not less than one-fourth of the health maintenance organizations reporting any such transactions under subsection (a)(3).

(e) Repealed. Pub. L. 99–660, title VIII, § 810, Nov. 14, 1986, 100 Stat. 3801

(f) Rates

Nothing in this section shall be construed to confer upon the Secretary any authority to approve or disapprove the rates charged by any health maintenance organization.

(g) Annual financial statement

Any health maintenance organization failing to file with the Secretary the annual financial statement required in subsection (a) shall be ineligible for any Federal assistance under this subchapter until such time as such statement is received by the Secretary and shall not be a qualified health maintenance organization for purposes of section 300e–9 of this title.

(h) Penalties

Whoever knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any statement filed pursuant to this section shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(July 1, 1944, ch. 373, title XIII, § 1318, as added Pub. L. 95–559, § 9(a), Nov. 1, 1978, 92 Stat. 2135; amended Pub. L. 97–35, title IX, § 948, Aug. 13, 1981, 95 Stat. 577; Pub. L. 99–660, title VIII, § 810, Nov. 14, 1986, 100 Stat. 3801; Pub. L. 108–173, title IX, § 900(e)(2)(E), Dec. 8, 2003, 117 Stat. 2372.)

Editorial Notes

AMENDMENTS

2003—Subsec. (a)(2). Pub. L. 108–173 substituted "Centers for Medicare & Medicaid Services" for "Health Care Financing Administration".

1986—Subsec. (e). Pub. L. 99–660 struck out subsec. (e) which read as follows: "The Secretary shall file an annual report with the Congress on the operation of this section. Such report shall include—

"(1) an enumeration of standards and norms utilized to make the evaluations required under subsection (d) of this section;

"(2) an assessment of the degree of conformity or nonconformity of each health maintenance organization evaluated by the Secretary under subsection (d) of this section with such standards and norms;

"(3) what action, if any, the Secretary considers necessary under section 300e–11 of this title with respect to health maintenance organizations evaluated under subsection (d) of this section."

1981—Subsec. (a). Pub. L. 97–35, § 948(a), (b), in par. (2) inserted reference to copy of the report, if any, filed with the Health Care Financing Administration, and in par. (3)(B) reorganized excluding provisions and, among revisions, inserted salaries paid to employees for services.

Subsec. (b)(1). Pub. L. 97–35, § 948(c), inserted "responsible for management or administration" after "employee".

Subsec. (b)(4). Pub. L. 97–35, § 948(d), substituted "spouse, child, or parent" for "member of the immediate family".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99–660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e–1 of this title.

SUBCHAPTER XII—SAFETY OF PUBLIC WATER SYSTEMS

PART A—DEFINITIONS

§ 300f. Definitions

For purposes of this subchapter:

(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 300g–1 of this title; and

(D) contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including accepted methods for 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.

At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.

(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) PUBLIC WATER SYSTEM.—

(A) IN GENERAL.—The term ''public water system'' means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(B) CONNECTIONS.—

(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after August 6, 1996. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water 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 300j–5 of this title.

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

(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, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency).

(13)(A) Except as provided in subparagraph (B), the term ''State'' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(B) For purposes of section 300j–12 of this title, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(14) The term ''Indian Tribe'' means any Indian tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over any area. For purposes of sections 300j–12, 300j–19a, and 300j–19b of this title, the term includes any Native village (as defined in section 1602(c) of title 43).

(15) COMMUNITY WATER SYSTEM.—The term ''community water system'' means a public water system that—

(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

(B) regularly serves at least 25 year-round residents.

(16) NONCOMMUNITY WATER SYSTEM.—The term ''noncommunity water system'' means a public water system that is not a community water system.

(July 1, 1944, ch. 373, title XIV, § 1401, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1660; amended Pub. L. 94–317, title III, § 301(b)(2), June 23, 1976, 90 Stat. 707; Pub. L. 94–484, title IX, § 905(b)(1), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–190, § 8(b), Nov. 16, 1977, 91 Stat. 1397; Pub. L. 99–339, title III, § 302(b), June 19, 1986, 100 Stat. 666; Pub. L. 104–182, title I, § 101(a), (b)(1), Aug. 6, 1996, 110 Stat. 1615, 1616; Pub. L. 114–322, title II, § 2111, Dec. 16, 2016, 130 Stat. 1729.)

Editorial Notes

REFERENCES IN TEXT

The Safe Drinking Water Act Amendments of 1996, referred to in par. (4)(C), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

2016—Par. (14). Pub. L. 114–322 substituted ''sections 300j–12, 300j–19a, and 300j–19b of this title'' for ''section 300j–12 of this title''.

1996—Par. (1). Pub. L. 104–182, § 101(a)(1)(B), inserted at end ''At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.''

Par. (1)(D). Pub. L. 104–182, § 101(a)(1)(A), inserted ''accepted methods for'' before ''quality control''.

Par. (4). Pub. L. 104–182, § 101(b)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, substituted ''water for human consumption through pipes or other constructed conveyances'' for ''piped water for human consumption'' in first sentence, and added subpars. (B) and (C).

Par. (13). Pub. L. 104–182, § 101(a)(2), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), the term'' for ''The term'', and added subpar. (B).

Par. (14). Pub. L. 104–182, § 101(a)(3), inserted at end ''For purposes of section 300j–12 of this title, the term includes any Native village (as defined in section 1602(c) of title 43).''

Pars. (15), (16). Pub. L. 104–182, § 101(a)(4), added pars. (15) and (16).

1986—Par. (10). Pub. L. 99–339, § 302(b)(2), substituted ''Indian Tribe'' for ''Indian tribal organization authorized by law''.

Par. (14). Pub. L. 99–339, § 302(b)(1), added par. (14).

1977—Par. (12). Pub. L. 95–190 expanded definition of ''person'' to include Federal agency, and officers, employees, and agents of any corporation, company, etc.

1976—Par. (13). Pub. L. 94–484 defined ''State'' to include Northern Mariana Islands.

Pub. L. 94–317 added par. (13).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–182, § 2(b), Aug. 6, 1996, 110 Stat. 1614, provided that: ''Except as otherwise specified in this Act [enacting sections 300g–7 to 300g–9, 300h–8, 300j–3c, and 300j–12 to 300j–18 of this title and section 1263a of Title 33, Navigation and Navigable Waters, amending this section, sections 300g–1 to 300g–6, 300h, 300h–5 to 300h–7, 300i, 300i–1, 300j to 300j–2, 300j–4 to 300j–8, 300j–11, and 300j–21 to 300j–25 of this title, sections 4701 and 4721 of Title 16, Conservation, and section 349 of Title 21, Food and Drugs, repealing section 13551 of this title, enacting provisions set out as notes under this section, sections 201, 300g–1, 300j–1, and 300j–12 of this title, section 1281 of Title 33, and section 45 of former Title 40, Public Buildings, Property, and Works, and amending provisions set out as a note under section 201 of this title] or in the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act [Aug. 6, 1996].''

SHORT TITLE

This subchapter is known as the ''Safe Drinking Water Act'', see note set out under section 201 of this title.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93–641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

EFFECT OF PUBLIC LAW 104–182 ON FEDERAL WATER POLLUTION CONTROL ACT

Pub. L. 104–182, § 2(c), Aug. 6, 1996, 110 Stat. 1614, provided that: ''Except for the provisions of section 302 [42 U.S.C. 300j–12 note] (relating to transfers of funds), nothing in this Act [see Effective Date of 1996 Amendment note above] or in any amendments made by this Act to title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (commonly known as the 'Safe Drinking Water Act') or any other law shall be construed by the Administrator of the Environmental Protection Agency or the courts as affecting, modifying, expanding, changing, or altering—

''(1) the provisions of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.];

''(2) the duties and responsibilities of the Administrator under that Act; or

''(3) the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act.

The Administrator shall identify in the agency's annual budget all funding and full-time equivalents administering such title XIV separately from funding and staffing for the Federal Water Pollution Control Act.''

CONGRESSIONAL FINDINGS

Pub. L. 104–182, § 3, Aug. 6, 1996, 110 Stat. 1614, provided that: ''The Congress finds that—

''(1) safe drinking water is essential to the protection of public health;

''(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

''(3) the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act;

''(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

''(5) the existing process for the assessment and selection of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for setting priorities in establishing drinking water regulations;

''(6) procedures for assessing the health effects of contaminants establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

''(7) in considering the appropriate level of regulation for contaminants in drinking water, risk assessment, based on sound and objective science, and benefit-cost analysis are important analytical tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

''(8) more effective protection of public health requires—

''(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern;

''(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

''(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

''(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act; and

''(10) consumers served by public water systems should be provided with information on the source of the water they are drinking and its quality and safety, as well as prompt notification of any violation of drinking water regulations.''

GAO STUDY

Pub. L. 104–182, title I, § 101(b)(2), Aug. 6, 1996, 110 Stat. 1617, required the Comptroller General to study the reliance for residential water on various nonpublic water systems and to submit a report on the results of the study to Congress within 3 years after Aug. 6, 1996.

SAFE DRINKING WATER AMENDMENTS OF 1977 RESTRICTIONS ON APPROPRIATIONS FOR RESEARCH

Pub. L. 95–190, § 2(e), Nov. 16, 1977, 91 Stat. 1393, provided that: ''Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to authorize the appropriation of any amount for research under title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (relating to safe drinking water).''

SAFE DRINKING WATER AMENDMENTS OF 1977 AS NOT AFFECTING AUTHORITY OF ADMINISTRATOR WITH RESPECT TO CONTAMINANTS

Pub. L. 95–190, § 3(e)(2), Nov. 16, 1977, 91 Stat. 1394, provided that: ''Nothing in this Act [see Short Title of 1977 Amendment note set out under section 201 of this title] shall be construed to alter or affect the Administrator's authority or duty under title 14 of the Public Health Service Act [42 U.S.C. 300f et seq.] to promulgate regulations or take other action with respect to any contaminant.''

RURAL WATER SURVEY; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–523, § 3, Dec. 16, 1974, 88 Stat. 1693, as amended by Pub. L. 95–190, §§ 2(d), 3(d), Nov. 16, 1977, 91 Stat. 1393, 1394, directed Administrator of Environmental Protection Agency, after consultation with Secretary of Agriculture and the several States, to enter into arrangements with public or private entities to conduct a survey of quantity, quality, and availability of rural drinking water supplies, which survey was to include, but not be limited to, consideration of number of residents in each rural area who presently are being inadequately served by a public or private drinking water supply system, or by an individual home drinking water supply system, or who presently have limited or otherwise inadequate access to drinking water, or who, due to absence or inadequacy of a drinking water supply system, are exposed to an increased health hazard, and who have experienced incidents of chronic or acute illness, which may be attributed to inadequacy of a drinking water supply system. Survey to be completed within eighteen months of Dec. 16, 1974, and a final report thereon submitted, not later than six months after completion of survey, to President and to Congress.

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

PART B—PUBLIC WATER SYSTEMS

§ 300g. Coverage

Subject to sections 300g–4 and 300g–5 of this title, 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;

(3) which does not sell water to any person; and

(4) which is not a carrier which conveys passengers in interstate commerce.

(July 1, 1944, ch. 373, title XIV, § 1411, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1662.)

§ 300g–1. National drinking water regulations

(a) National primary drinking water regulations; maximum contaminant level goals; simultaneous publication of regulations and goals

(1) Effective on June 19, 1986, each national interim or revised primary drinking water regulation promulgated under this section before June 19, 1986, shall be deemed to be a national primary drinking water regulation under subsection (b). No such regulation shall be required to comply with the standards set forth in subsection (b)(4) unless such regulation is amended to establish a different maximum contaminant level after June 19, 1986.

(2) After June 19, 1986, each recommended maximum contaminant level published before June 19, 1986, shall be treated as a maximum contaminant level goal.

(3) Whenever a national primary drinking water regulation is proposed under subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be proposed simultaneously. Whenever a national primary drinking water regulation is promulgated under subsection (b) for any contaminant, the maximum contaminant level goal for such contaminant shall be published simultaneously.

(4) Paragraph (3) shall not apply to any recommended maximum contaminant level published before June 19, 1986.

(b) Standards

(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of August 6, 1996) if the Administrator determines that—

(i) the contaminant may have an adverse effect on the health of persons;

(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

(B) REGULATION OF UNREGULATED CONTAMINANTS.—

(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(I) Not later than 18 months after August 6, 1996, and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 300j–4(g) of this title, shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this subchapter.

(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 9601(14) of this title, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after August 6, 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 300j–4(g) of this title.

(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at

greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

(2) SCHEDULES AND DEADLINES.—

(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.

(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

(i) each population addressed by any estimate of public health effects;

(ii) the expected risk or central estimate of risk for the specific populations;

(iii) each appropriate upper-bound or lower-bound estimate of risk;

(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

(v) peer-reviewed studies known to the Administrator that support, are directly rel-

evant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of each of the following:

(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.

(4) GOALS AND STANDARDS.—

(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety.

(B) MAXIMUM CONTAMINANT LEVELS.—Except as provided in paragraphs (5) and (6), each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum contaminant level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).

(D) DEFINITION OF FEASIBLE.—For the purposes of this subsection, the term ''feasible'' means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of this paragraph, granular activated carbon is feasible for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as granular activated carbon.

(E) FEASIBLE TECHNOLOGIES.—

(i) IN GENERAL.—Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other

means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a regulation under this subsection shall not require that any specified technology, treatment technique, or other means be used for purposes of meeting such maximum contaminant level.

(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

(I) a population of 10,000 or fewer but more than 3,300;

(II) a population of 3,300 or fewer but more than 500; and

(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after August 6, 1996, and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to June 19, 1986.

(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after August 6, 1996, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).

(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

(i) increasing the concentration of other contaminants in drinking water; or

(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

(i) persons served by large public water systems; and

(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 300g–4(e) of this title (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 300g–4(e) of this title for a small system variance.

(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 300j–7 of this title only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.

(7)(A) The Administrator is authorized to promulgate a national primary drinking water regulation that requires the use of a treatment technique in lieu of establishing a maximum contaminant level, if the Administrator makes a finding that it is not economically or technologically feasible to ascertain the level of the contaminant. In such case, the Administrator shall identify those treatment techniques which, in the Administrator's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Such regulations shall specify each treatment technique known to the Administrator which meets the requirements of this paragraph, but the Administrator may grant a variance from any specified treatment technique in accordance with section 300g–4(a)(3) of this title.

(B) Any schedule referred to in this subsection for the promulgation of a national primary drinking water regulation for any contaminant shall apply in the same manner if the regulation requires a treatment technique in lieu of establishing a maximum contaminant level.

(C)(i) Not later than 18 months after June 19, 1986, the Administrator shall propose and promulgate national primary drinking water regulations specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources. In promulgating such rules, the Administrator shall consider the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health.

(ii) In lieu of the provisions of section 300g–4 of this title the Administrator shall specify procedures by which the State determines which public water systems within its jurisdiction shall adopt filtration under the criteria of clause (i). The State may require the public water system to provide studies or other information to assist in this determination. The procedures shall provide notice and opportunity for public hearing on this determination. If the State determines that filtration is required, the State shall prescribe a schedule for compliance by the public water system with the filtration requirement. A schedule shall require compliance within 18 months of a determination made under clause (iii).

(iii) Within 18 months from the time that the Administrator establishes the criteria and procedures under this subparagraph, a State with primary enforcement responsibility shall adopt any necessary regulations to implement this subparagraph. Within 12 months of adoption of such regulations the State shall make determinations regarding filtration for all the public water systems within its jurisdiction supplied by surface waters.

(iv) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to make the determination in clause (ii) in such State as the State would have under that clause. Any filtration requirement or schedule under this subparagraph shall be treated as if it were a requirement of a national primary drinking water regulation.

(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).

(8) DISINFECTION.—At any time after the end of the 3-year period that begins on August 6, 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water sys-

tems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 300g–2 of this title, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water. The Administrator shall simultaneously promulgate a rule specifying criteria that will be used by the Administrator (or delegated State authorities) to grant variances from this requirement according to the provisions of sections 300g–4(a)(1)(B) and 300g–4(a)(3) of this title. In implementing section 300j–1(e) of this title the Administrator or the delegated State authority shall, where appropriate, give special consideration to providing technical assistance to small public water systems in complying with the regulations promulgated under this paragraph.

(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this subchapter. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.

(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.

(11) No national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water.

(12) CERTAIN CONTAMINANTS.—

(A) ARSENIC.—

(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) STUDY PLAN.—Not later than 180 days after August 6, 1996, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

(B) SULFATE.—

(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, and shall be completed not later than 30 months after August 6, 1996.

(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after August 6, 1996.

(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.

(13) RADON IN DRINKING WATER.—

(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to August 6, 1996, and shall propose and promulgate a regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

(B) RISK ASSESSMENT AND STUDIES.—

(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator

shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies.

(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—Not later than 30 months after August 6, 1996, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

(D) PROPOSED REGULATION.—Not later than 36 months after August 6, 1996, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or disapprove a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modified to address the objections of the Administrator and be resubmitted for approval.

(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph

to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).

(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after August 6, 1996, unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.

(15) VARIANCE TECHNOLOGIES.—

(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques, or other means (referred to in this paragraph as ''variance technology'') for the contaminant that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

(i) a population of 10,000 or fewer but more than 3,300;

(ii) a population of 3,300 or fewer but more than 500; and

(iii) a population of 500 or fewer but more than 25,

if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after August 6, 1996, and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to August 6, 1996, for which a variance may be granted under section 300g–4(e) of this title. The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than every 7 years, or upon receipt of a petition supported by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.

(c) Secondary regulations; publication of proposed regulations; promulgation; amendments

The Administrator shall publish proposed national secondary drinking water regulations within 270 days after December 16, 1974. 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; public hearings; administrative consultations

Regulations under this section shall be prescribed in accordance with section 553 of title 5 (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 and the National Drinking Water Advisory Council.

(e) Science Advisory Board comments

The Administrator shall request comments from the Science Advisory Board (established under the Environmental Research, Development, and Demonstration Act of 1978) prior to proposal of a maximum contaminant level goal and national primary drinking water regulation. The Board shall respond, as it deems appropriate, within the time period applicable for promulgation of the national primary drinking water standard concerned. This subsection shall, under no circumstances, be used to delay final promulgation of any national primary drinking water standard.

(July 1, 1944, ch. 373, title XIV, § 1412, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1662; amended Pub. L. 95–190, §§ 3(c), 12(a), Nov. 16, 1977, 91 Stat. 1394, 1398; Pub. L. 99–339, title I, § 101(a)–(c)(1), (d), (e), June 19, 1986, 100 Stat. 642–646; Pub. L. 104–182, title I, §§ 102(a), (c)(2), 103, 104(a), (c), 105–111(a), title V, § 501(a)(1), (2), Aug. 6, 1996, 110 Stat. 1617, 1621–1623, 1625–1631, 1691.)

Editorial Notes

REFERENCES IN TEXT

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b)(1)(B)(i)(II), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Safe Drinking Water Act Amendments of 1996, referred to in subsec. (b)(13)(A), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

The Environmental Research, Development, and Demonstration Act of 1978, referred to in subsec. (e), probably means the Environmental Research, Development, and Demonstration Authorization Act of 1978 which is Pub. L. 95–155, Nov. 8, 1977, 91 Stat. 1257. Provisions of the Act establishing the Science Advisory Board are classified to section 4365 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–182, § 102(c)(2), struck out ''paragraph (1), (2), or (3) of'' before ''subsection (b)'' in two places.

Subsec. (b). Pub. L. 104–182, § 102(a), inserted heading.

Subsec. (b)(1), (2). Pub. L. 104–182, § 102(a), added pars. (1) and (2) and struck out former pars. (1) and (2) which related to publication of maximum contaminant level goals and promulgation of national primary drinking water regulations for certain listed contaminants or substituted contaminants.

Subsec. (b)(3). Pub. L. 104–182, § 103, added par. (3).

Pub. L. 104–182, § 102(a), struck out par. (3) which related to publication of maximum contaminant level goals and promulgation of national primary drinking water regulations for contaminants, other than those referred to in pars. (1) or (2), which may have an adverse effect on human health and are known to occur in public water systems.

Subsec. (b)(4). Pub. L. 104–182, § 104(a)(1), designated first sentence as subpar. (A), inserted par. and subpar. (A) headings, designated second sentence as subpar. (B), inserted subpar. (B) heading, substituted ''Except as provided in paragraphs (5) and (6), each national'' for ''Each national'' and ''specify a maximum contaminant level'' for ''specify a maximum level'', and added subpar. (C).

Subsec. (b)(4)(D). Pub. L. 104–182, § 104(a)(2), (3), redesignated par. (5) as subpar. (D) of par. (4), inserted subpar. heading, and substituted ''this paragraph'' for ''paragraph (4)''.

Subsec. (b)(4)(E). Pub. L. 104–182, §§ 104(a)(4), (5), 105, redesignated par. (6) as subpar. (E)(i) of par. (4), inserted subpar. and cl. headings, substituted ''this subsection'' for ''this paragraph'', and added cls. (ii) to (v).

Subsec. (b)(5), (6). Pub. L. 104–182, § 104(a)(6), added pars. (5) and (6). Former pars. (5) and (6) redesignated subpars. (D) and (E)(i), respectively, of par. (4).

Subsec. (b)(7)(C)(v). Pub. L. 104–182, § 106, added cl. (v).

Subsec. (b)(8). Pub. L. 104–182, § 501(a)(2), substituted ''section 300j–1(e)'' for ''section 300j–1(g)''.

Pub. L. 104–182, § 107, inserted heading, realigned margins, and substituted ''At any time after the end of the 3-year period that begins on August 6, 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 300g–2 of this title, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.'' for ''Not later than 36 months after June 19, 1986, the Administrator shall propose and promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems.''

Subsec. (b)(9). Pub. L. 104–182, § 104(c), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''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 3 years. Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities that have occurred over the previous 3-year period and that may provide for greater protection of the health of persons. The findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that the technology, treatment techniques, or other means resulting from such innovations or

changes are not feasible within the meaning of paragraph (5), an explanation of such conclusion shall be published in the Federal Register.''

Subsec. (b)(10). Pub. L. 104–182, § 108, amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''National primary drinking water regulations promulgated under this subsection (and amendments thereto) shall take effect eighteen months after the date of their promulgation. Regulations under subsection (a) of this section shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection.''

Subsec. (b)(11). Pub. L. 104–182, § 501(a)(1), realigned margins.

Subsec. (b)(12). Pub. L. 104–182, § 109(a), added par. (12).

Subsec. (b)(13). Pub. L. 104–182, § 109(b), added par. (13).

Subsec. (b)(14). Pub. L. 104–182, § 110, added par. (14).

Subsec. (b)(15). Pub. L. 104–182, § 111(a), added par. (15).

1986—Subsec. (a). Pub. L. 99–339, § 101(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after December 16, 1974. Within 180 days after December 16, 1974, 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 December 16, 1974.

''(3) The interim primary regulations first promulgated under paragraph (1) shall take effect eighteen months after the date of their promulgation.''

Subsec. (b)(1). Pub. L. 99–339, § 101(b), substituted provisions establishing standard setting schedules and deadlines for provisions relating to establishment of maximum contaminant levels and a list of contaminants with adverse effect but of undetermined levels.

Subsec. (b)(2). Pub. L. 99–339, § 101(b), substituted provisions authorizing the Administrator to substitute contaminants for those referred to in par. (1) and to supply a list of the contaminants proposed for substitution, with the decision of the Administrator to regulate such contaminant not subject to judicial review, for provisions which authorized the Administrator to publish in the Federal Register proposed revised national interim primary drinking water regulations and 180 days after the date of such proposed regulations to promulgate such revised regulations with modification as deemed appropriate.

Subsec. (b)(3). Pub. L. 99–339, § 101(b), substituted provisions directing the Administrator to publish maximum contaminant level goals and promulgate national primary drinking water regulations for contaminants, other than specified in par. (1) or (2), which may have an adverse effect on health and are known or anticipated to occur in public water systems, to establish an advisory working group to aid in establishing a list of such contaminants, and to publish, within a specified time, both proposed and final goals and regulations for provisions which required that revised national primary drinking water regulations specify a maximum contaminant level or require the use of treatment techniques for each contaminant, which level or technique was to be as close to the recommended level or technique as feasible, and defined the term ''feasible''.

Subsec. (b)(4) to (11). Pub. L. 99–339, § 101(b), (c)(1), (d), added pars. (4) to (8), redesignated former pars. (4) to (6) as pars. (9) to (11), respectively, in par. (9) substituted ''National'' for ''Revised National'' and inserted provision that review include analysis, and publication in Federal Register, of innovations in technology, treatment techniques or other activities occurring during previous three years and their feasibility, and in par. (10) substituted ''National'' for ''Revised National''.

Subsec. (e). Pub. L. 99–339, § 101(e), amended subsec. (e) generally, substituting provisions which relate to the request by the Administrator of comments by the Science Advisory Board prior to proposal of a maximum contaminant level goal and national primary drinking water regulation for provisions which related to study by the National Academy of Sciences to determine the maximum contaminant levels, report to Congress, and funding therefor.

1977—Subsec. (e)(2). Pub. L. 95–190 inserted provisions relating to revisions of the required report and cl. (G).

Statutory Notes and Related Subsidiaries

NATIONAL PRIMARY DRINKING WATER REGULATION FOR ARSENIC

Pub. L. 106–377, § 1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–41, provided in part: ''That notwithstanding section 1412(b)(12)(A)(v) of the Safe Drinking Water Act, as amended [42 U.S.C. 300g–1(b)(12)(A)(v)], the Administrator shall promulgate a national primary drinking water regulation for arsenic not later than June 22, 2001.''

APPLICABILITY OF PRIOR REQUIREMENTS

Pub. L. 104–182, title I, § 102(b), Aug. 6, 1996, 110 Stat. 1620, provided that: ''The requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act [42 U.S.C. 300g–1(b)(3)(C), (D)] as in effect before the date of enactment of this Act [Aug. 6, 1996], and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of this Act, are superseded by the amendments made by subsection (a) [amending this section].''

DISINFECTANTS AND DISINFECTION BYPRODUCTS

Pub. L. 104–182, title I, § 104(b), Aug. 6, 1996, 110 Stat. 1625, provided that: ''The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Safe Drinking Water Act [42 U.S.C. 300g–1(b)(5)] (as amended by this Act) to promulgate the Stage I and Stage II Disinfectants and Disinfection Byproducts Rules as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). The considerations used in the development of the July 29, 1994, proposed national primary drinking water regulation on disinfectants and disinfection byproducts shall be treated as consistent with such section 1412(b)(5) for purposes of such Stage I and Stage II rules.''

§ 300g–2. State primary enforcement responsibility

(a) In general

For purposes of this subchapter, 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 that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 300g–1 of this title not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;

(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;

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), 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 300g–4 and 300g–5 of this title;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances including earthquakes, floods, hurricanes, and other natural disasters, as appropriate;

(6) has adopted and is implementing procedures for requiring public water systems to assess options for consolidation or transfer of ownership or other actions in accordance with the regulations issued by the Administrator under section 300g–3(h)(6) of this title; and

(7) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

(b) Regulations

(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements 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 met or 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 subchapter 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) deny the application and notify the applicant in writing of the reasons for his denial.

(c) Interim primary enforcement authority

A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.

(July 1, 1944, ch. 373, title XIV, § 1413, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1665; amended Pub. L. 99–339, title I, § 101(c)(2), June 19, 1986, 100 Stat. 646; Pub. L. 104–182, title I, §§ 112, 113(b), Aug. 6, 1996, 110 Stat. 1633, 1635; Pub. L. 115–270, title II, § 2010(b), Oct. 23, 2018, 132 Stat. 3848.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(6), (7). Pub. L. 115–270, § 2010(b)(1), added par. (6) and redesignated former par. (6) as (7).

Subsec. (b)(1). Pub. L. 115–270, § 2010(b)(2), struck out ''of paragraphs (1), (2), (3), and (4)'' after ''the requirements''.

1996—Subsec. (a)(1). Pub. L. 104–182, § 112(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''has adopted drinking water regulations which are no less stringent than the national primary drinking water regulations in effect under sections 300g–1(a) and 300g–1(b) of this title;''.

Subsec. (a)(5). Pub. L. 104–182, § 112(b), inserted ''including earthquakes, floods, hurricanes, and other natural disasters, as appropriate'' after ''emergency circumstances''.

Subsec. (a)(6). Pub. L. 104–182, § 113(b), added par. (6).

Subsec. (c). Pub. L. 104–182, § 112(a)(2), added subsec. (c).

1986—Subsec. (a)(1). Pub. L. 99–339 substituted ''are no less stringent than the national primary drinking water regulations in effect under sections 300g–1(a) and 300g–1(b) of this title'' for subpars. (A) and (B) which related to stringency of State drinking water regulations between period of promulgation and effective date of national interim drinking water regulations and during the period after such effective date.

§ 300g–3. Enforcement of drinking water regulations

(a) Notice to State and public water system; issuance of administrative order; civil action

(1)(A) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for public water systems (within the meaning of section 300g–2(a) of this title) that any public water system—

(i) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is not in effect, does not comply with any applicable requirement, or

(ii) for which a variance under section 300g–4 or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

he shall so notify the State and such public water system 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 the requirement by the earliest feasible time.

(B) If, beyond the thirtieth day after the Administrator's notification under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such applicable requirement or the Administrator shall commence a civil action under subsection (b).

(2) ENFORCEMENT IN NONPRIMACY STATES.—

(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

(i) for which a variance under section 300g–4 of this title or an exemption under section 300g–5 of this title is not in effect, does not comply with any applicable requirement; or

(ii) for which a variance under section 300g–4 of this title or an exemption under section 300g–5 of this title is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.

(b) Judicial determinations in appropriate Federal district courts; civil penalties, separate violations

The Administrator may bring a civil action in the appropriate United States district court to require compliance with any applicable requirement, with an order issued under subsection (g), or with any schedule or other requirement imposed pursuant to a variance or exemption granted under section 300g–4 or 300g–5 of this title 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, in an action brought under this subsection, such judgement as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies; and, if the court determines that there has been a violation of the regulation or schedule or other requirement with respect to which the action was brought, the court may, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, impose on the violator a civil penalty of not to exceed $25,000 for each day in which such violation occurs.

(c) Notice to States, the Administrator, and persons served

(1) In general

Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

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

(i) 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

(ii) perform monitoring required by section 300j–4(a) of this title.

(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 300g–4 of this title for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 300g–5 of this title, notice of—

(i) the existence of the variance or exemption; and

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

(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(F).

(D) Notice that the public water system exceeded the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 300g–1 of this title).

(2) Form, manner, and frequency of notice

(A) In general

The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

(ii) take into account the seriousness of any potential adverse health effects that may be involved.

(B) State requirements

(i) In general

A State may, by rule, establish alternative notification requirements—

(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

(II) with respect to the form and content of notice given under subparagraph (E).

(ii) Contents

The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

(iii) Relationship to section 300g–2

Nothing in this subparagraph shall be construed or applied to modify the requirements of section 300g–2 of this title.

(C) Notice of violations or exceedances with potential to have serious adverse effects on human health

Regulations issued under subparagraph (A) shall specify notification procedures for each violation, and each exceedance described in paragraph (1)(D), by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation or exceedance provided under this subparagraph shall—

(i) be distributed as soon as practicable, but not later than 24 hours, after the public water system learns of the violation or exceedance;

(ii) provide a clear and readily understandable explanation of—

(I) the violation or exceedance;

(II) the potential adverse effects on human health;

(III) the steps that the public water system is taking to correct the violation or exceedance; and

(IV) the necessity of seeking alternative water supplies until the violation or exceedance is corrected;

(iii) be provided to the Administrator and the head of the State agency that has primary enforcement responsibility under section 300g–2 of this title, as applicable, as soon as practicable, but not later than 24 hours after the public water system learns of the violation or exceedance; and

(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

(I) be provided to appropriate media, including broadcast media;

(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

(III) be provided by posting or door-to-door notification.

(D) Notice by the Administrator

If the State with primary enforcement responsibility or the owner or operator of a public water system has not issued a notice under subparagraph (C) for an exceedance of the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 300g–1 of this title) that has the potential to have serious adverse effects on human health as a result of short-term exposure, not later than 24 hours after the Administrator is notified of the exceedance, the Administrator shall issue the required notice under that subparagraph.

(E) Written notice

(i) In general

Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

(ii) Form and manner of notice

The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

(F) Unregulated contaminants

The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 300j–4(a) of this title.

(3) Reports

(A) Annual report by State

(i) In general

Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 300g–2 of this title shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) moni-

toring requirements determined to be significant by the Administrator after consultation with the States.

(ii) Distribution

The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

(B) Annual report by Administrator

Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A), notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (E) of paragraph (2), and notices issued by the Administrator with respect to public water systems serving Indian Tribes under subparagraph (D) of that paragraph and making recommendations concerning the resources needed to improve compliance with this subchapter. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this subchapter on Indian reservations.

(4) Consumer confidence reports by community water systems

(A) Reports to consumers

The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after August 6, 1996, to require each community water system to mail, or provide by electronic means, to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a ''consumer confidence report''). Such regulations shall provide a brief and plainly worded definition of the terms ''maximum contaminant level goal'', ''maximum contaminant level'', ''variances'', and ''exemptions'' and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

(B) Contents of report

The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

(i) Information on the source of the water purveyed.

(ii) A brief and plainly worded definition of the terms ''action level'', ''maximum contaminant level goal'', ''maximum contaminant level'', ''variances'', and ''exemptions'' as provided in the regulations of the Administrator.

(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement describing, as applicable—

(I) the maximum contaminant level goal;

(II) the maximum contaminant level;

(III) the level of the contaminant in the water system;

(IV) the action level for the contaminant; and

(V) for any contaminant for which there has been a violation of the maximum contaminant level during the year concerned, a brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant, as provided by the Administrator in regulations under subparagraph (A).

(iv) Information on compliance with national primary drinking water regulations, as required by the Administrator, including corrosion control efforts, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

(v) Information on the levels of unregulated contaminants for which monitoring is required under section 300j–4(a)(2) of this title (including levels of cryptosporidium and radon where States determine they may be found).

(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline.

(vii) Identification of, if any—

(I) exceedances described in paragraph (1)(D) for which corrective action has been required by the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) during the monitoring period covered by the consumer confidence report; and

(II) violations that occurred during the monitoring period covered by the consumer confidence report.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in clause (iii)(V), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

(C) Coverage

The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

(ii) make the consumer confidence report available upon request to the public; and

(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

(D) Alternative to publication

For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

(E) Alternative form and content

A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.

(F) Revisions

(i) Understandability and frequency

Not later than 24 months after October 23, 2018, the Administrator, in consultation with the parties identified in subparagraph (A), shall issue revisions to the regulations issued under subparagraph (A)—

(I) to increase—

(aa) the readability, clarity, and understandability of the information presented in consumer confidence reports; and

(bb) the accuracy of information presented, and risk communication, in consumer confidence reports; and

(II) with respect to community water systems that serve 10,000 or more persons, to require each such community water system to provide, by mail, electronic means, or other methods described in clause (ii), a consumer confidence report to each customer of the system at least biannually.

(ii) Electronic delivery

Any revision of regulations pursuant to clause (i) shall allow delivery of consumer confidence reports by methods consistent with methods described in the memorandum ''Safe Drinking Water Act–Consumer Confidence Report Rule Delivery Options'' issued by the Environmental Protection Agency on January 3, 2013.

(5) Exceedance of lead level at households

(A) Strategic plan

Not later than 180 days after December 16, 2016, the Administrator shall, in collaboration with owners and operators of public water systems and States, establish a strategic plan for how the Administrator, a State with primary enforcement responsibility, and owners and operators of public water systems shall provide targeted outreach, education, technical assistance, and risk communication to populations affected by the concentration of lead in a public water system, including dissemination of information described in subparagraph (C).

(B) EPA initiation of notice

(i) Forwarding of data by employee of the Agency

If the Agency develops, or receives from a source other than a State or a public water system, data that meets the requirements of section 300g–1(b)(3)(A)(ii) of this title that indicates that the drinking water of a household served by a public water system contains a level of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 300g–1 of this title) (referred to in this paragraph as an ''affected household''), the Administrator shall require an appropriate employee of the Agency to forward the data, and information on the sampling techniques used to obtain the data, to the owner or operator of the public water system and the State in which the affected household is located within a time period determined by the Administrator.

(ii) Dissemination of information by owner or operator

The owner or operator of a public water system shall disseminate to affected households the information described in subparagraph (C) within a time period established by the Administrator, if the owner or operator—

(I) receives data and information under clause (i); and

(II) has not, since the date of the test that developed the data, notified the affected households—

(aa) with respect to the concentration of lead in the drinking water of the affected households; and

(bb) that the concentration of lead in the drinking water of the affected households exceeds the lead action level under section 141.80(c) of title 40,

Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 300g–1 of this title).

(iii) Consultation

(I) Deadline

If the owner or operator of the public water system does not disseminate to the affected households the information described in subparagraph (C) as required under clause (ii) within the time period established by the Administrator, not later than 24 hours after the Administrator becomes aware of the failure by the owner or operator of the public water system to disseminate the information, the Administrator shall consult, within a period not to exceed 24 hours, with the applicable Governor to develop a plan, in accordance with the strategic plan, to disseminate the information to the affected households not later than 24 hours after the end of the consultation period.

(II) Delegation

The Administrator may only delegate the duty to consult under subclause (I) to an employee of the Agency who, as of the date of the delegation, works in the Office of Water at the headquarters of the Agency.

(iv) Dissemination by Administrator

The Administrator shall, as soon as practicable, disseminate to affected households the information described in subparagraph (C) if—

(I) the owner or operator of the public water system does not disseminate the information to the affected households within the time period determined by the Administrator, as required by clause (ii); and

(II)(aa) the Administrator and the applicable Governor do not agree on a plan described in clause (iii)(I) during the consultation period under that clause; or

(bb) the applicable Governor does not disseminate the information within 24 hours after the end of the consultation period.

(C) Information required

The information described in this subparagraph includes—

(i) a clear explanation of the potential adverse effects on human health of drinking water that contains a concentration of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 300g–1 of this title);

(ii) the steps that the owner or operator of the public water system is taking to mitigate the concentration of lead; and

(iii) the necessity of seeking alternative water supplies until the date on which the concentration of lead is mitigated.

(6) Privacy

Any notice to the public or an affected household under this subsection shall protect the privacy of individual customer information.

(d) Notice of noncompliance with secondary drinking water regulations

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) State authority to adopt or enforce laws or regulations respecting drinking water regulations or public water systems unaffected

Nothing in this subchapter 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 subchapter.

(f) Notice and public hearing; availability of recommendations transmitted to State and public water system

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.

(g) Administrative order requiring compliance; notice and hearing; civil penalty; civil actions

(1) In any case in which the Administrator is authorized to bring a civil action under this section or under section 300j–4 of this title with re-

spect to any applicable requirement, the Administrator also may issue an order to require compliance with such applicable requirement.

(2) An order issued under this subsection shall not take effect, in the case of a State having primary enforcement responsibility for public water systems in that State, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the order. A copy of any order issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(3)(A) Any person who violates, or fails or refuses to comply with, an order under this subsection shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5.

(C) Whenever any civil penalty sought by the Administrator under this subsection for a violation of an applicable requirement exceeds $25,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28).

(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(h) Consolidation incentive

(1) In general

An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 300g–2 of this title) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

(A) the physical consolidation of the system with 1 or more other systems;

(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems;

(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality; or

(D) entering into a contractual agreement for significant management or administrative functions of the system to correct violations identified in the plan.

(2) Consequences of approval

If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

(3) Authority for mandatory assessment

(A) Authority

A State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility) may require the owner or operator of a public water system to assess options for consolidation, or transfer of ownership of the system, as described in paragraph (1), or other actions expected to achieve compliance with national primary drinking water regulations described in clause (i)(I), if—

(i) the public water system—

(I) has repeatedly violated one or more national primary drinking water regulations and such repeated violations are likely to adversely affect human health; and

(II)(aa) is unable or unwilling to take feasible and affordable actions, as determined by the State with primary enforcement responsibility or the Administrator (if the State does not have primary enforcement responsibility), that will result in the public water system complying with the national primary drinking water regulations described in subclause (I), including accessing technical assistance and financial assistance through the State loan fund pursuant to section 300j–12 of this title; or

(bb) has already undertaken actions described in item (aa) without achieving compliance;

(ii) such consolidation, transfer, or other action is feasible; and

(iii) such consolidation, transfer, or other action could result in greater compliance with national primary drinking water regulations.

(B) Tailoring of assessments

Requirements for any assessment to be conducted pursuant to subparagraph (A) shall be tailored with respect to the size, type, and characteristics, of the public water system to be assessed.

(C) Approved entities

An assessment conducted pursuant to subparagraph (A) may be conducted by an entity approved by the State requiring such assessment (or the Administrator, if the State does not have primary enforcement responsi-

bility), which may include such State (or the Administrator, as applicable), the public water system, or a third party.

(D) Burden of assessments

It is the sense of Congress that any assessment required pursuant to subparagraph (A) should not be overly burdensome on the public water system that is assessed.

(4) Financial assistance

Notwithstanding section 300j–12(a)(3) of this title, a public water system undertaking consolidation or transfer of ownership or other actions pursuant to an assessment completed under paragraph (3) may receive a loan described in section 300j–12(a)(2)(A) of this title to carry out such consolidation, transfer, or other action.

(5) Protection of nonresponsible system

(A) Identification of liabilities

(i) In general

An owner or operator of a public water system that submits a plan pursuant to paragraph (1) based on an assessment conducted with respect to such public water system under paragraph (3) shall identify as part of such plan—

(I) any potential and existing liability for penalties and damages arising from each specific violation identified in the plan of which the owner or operator is aware; and

(II) any funds or other assets that are available to satisfy such liability, as of the date of submission of such plan, to the public water system that committed such violation.

(ii) Inclusion

In carrying out clause (i), the owner or operator shall take reasonable steps to ensure that all potential and existing liabilities for penalties and damages arising from each specific violation identified in the plan are identified.

(B) Reservation of funds

A public water system that, consistent with the findings of an assessment conducted pursuant to paragraph (3), has completed the actions under a plan submitted and approved pursuant to this subsection shall not be liable under this subchapter for a violation of this subchapter identified in the plan, except to the extent to which funds or other assets are identified pursuant to subparagraph (A)(i)(II) as available to satisfy such liability.

(6) Regulations

Not later than 2 years after October 23, 2018, the Administrator shall promulgate regulations to implement paragraphs (3), (4), and (5).

(i) "Applicable requirement" defined

In this section, the term ''applicable requirement'' means—

(1) a requirement of section 300g–1, 300g–3, 300g–4, 300g–5, 300g–6, 300i–2, 300j, or 300j–4 of this title;

(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 300g–2 of this title have been satisfied, or an applicable State program approved pursuant to this part.

(j) Improved accuracy and availability of compliance monitoring data

(1) Strategic plan

Not later than 1 year after October 23, 2018, the Administrator, in coordination with States (including States without primary enforcement responsibility under section 300g–2 of this title), public water systems, and other interested stakeholders, shall develop and provide to Congress a strategic plan for improving the accuracy and availability of monitoring data collected to demonstrate compliance with national primary drinking water regulations and submitted—

(A) by public water systems to States; or

(B) by States to the Administrator.

(2) Evaluation

In developing the strategic plan under paragraph (1), the Administrator shall evaluate any challenges faced—

(A) in ensuring the accuracy and integrity of submitted data described in paragraph (1);

(B) by States and public water systems in implementing an electronic system for submitting such data, including the technical and economic feasibility of implementing such a system; and

(C) by users of such electronic systems in being able to access such data.

(3) Findings and recommendations

The Administrator shall include in the strategic plan provided to Congress under paragraph (1)—

(A) a summary of the findings of the evaluation under paragraph (2); and

(B) recommendations on practicable, cost-effective methods and means that can be employed to improve the accuracy and availability of submitted data described in paragraph (1).

(4) Consultation

In developing the strategic plan under paragraph (1), the Administrator may, as appropriate, consult with States or other Federal agencies that have experience using practicable methods and means to improve the accuracy and availability of submitted data described in such paragraph.

(July 1, 1944, ch. 373, title XIV, § 1414, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1666; amended Pub. L. 95–190, § 12(b), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 99–339, title I, §§ 102, 103, June 19, 1986, 100 Stat. 647, 648; Pub. L. 104–182, title I, §§ 113(a), 114(a), Aug. 6, 1996, 110 Stat. 1634, 1636; Pub. L. 107–188, title IV, § 403(1), June 12, 2002, 116 Stat. 687; Pub. L. 114–322, title II, § 2106(a), Dec. 16, 2016, 130 Stat. 1722; Pub. L. 115–270, title II, §§ 2008–2010(a), 2011, Oct. 23, 2018, 132 Stat. 3846, 3847, 3849.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(4)(A). Pub. L. 115–270, § 2008(1), (2), substituted ''Reports'' for ''Annual reports'' in heading and inserted '', or provide by electronic means,'' after ''to mail'' in text.

Subsec. (c)(4)(B)(iv). Pub. L. 115–270, § 2008(3)(A), substituted ''the Administrator, including corrosion control efforts, and'' for ''the Administrator, and''.

Subsec. (c)(4)(B)(vii). Pub. L. 115–270, § 2008(3)(B), which directed amendment of subpar. (B) by adding cl. (vii) at the end, was executed by adding cl. (vii) after cl. (vi) and before concluding provisions, to reflect the probable intent of Congress.

Subsec. (c)(4)(F). Pub. L. 115–270, § 2008(4), added subpar. (F).

Subsec. (h)(1)(D). Pub. L. 115–270, § 2009(a), added subpar. (D).

Subsec. (h)(3) to (6). Pub. L. 115–270, § 2010(a), added pars. (3) to (6).

Subsec. (i)(1). Pub. L. 115–270, § 2009(b), inserted a comma after ''300g–6''.

Subsec. (j). Pub. L. 115–270, § 2011, added subsec. (j).

2016—Subsec. (c). Pub. L. 114–322, § 2106(a)(1), substituted ''Notice to States, the Administrator, and'' for ''Notice to'' in heading.

Subsec. (c)(1)(C). Pub. L. 114–322, § 2106(a)(2)(A), substituted ''paragraph (2)(F)'' for ''paragraph (2)(E)''.

Subsec. (c)(1)(D). Pub. L. 114–322, § 2106(a)(2)(B), added subpar. (D).

Subsec. (c)(2)(B)(i)(II). Pub. L. 114–322, § 2106(a)(3)(A), substituted ''subparagraph (E)'' for ''subparagraph (D)''.

Subsec. (c)(2)(C). Pub. L. 114–322, § 2106(a)(3)(B)(i), (ii), substituted, in heading, ''Notice of violations or exceedances'' for ''Violations'' and, in introductory provisions, ''each violation, and each exceedance described in paragraph (1)(D),'' for ''each violation'' and ''notice of violation or exceedance'' for ''notice of violation''.

Subsec. (c)(2)(C)(i). Pub. L. 114–322, § 2106(a)(3)(B)(iii), added cl. (i) and struck out former cl. (i) which read as follows: ''be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;''.

Subsec. (c)(2)(C)(ii). Pub. L. 114–322, § 2106(a)(3)(B)(iv), inserted ''or exceedance'' after ''violation'' wherever appearing.

Subsec. (c)(2)(C)(iii). Pub. L. 114–322, § 2106(a)(3)(B)(v), added cl. (iii) and struck out former cl. (iii) which read as follows: ''be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 300g–2 of this title as soon as practicable, but not later than 24 hours after the occurrence of the violation; and''.

Subsec. (c)(2)(C)(iv)(I). Pub. L. 114–322, § 2106(a)(3)(B)(vi)(I), substituted ''media, including broadcast media'' for ''broadcast media''.

Subsec. (c)(2)(C)(iv)(III). Pub. L. 114–322, § 2106(a)(3)(B)(vi)(II), struck out ''in lieu of notification by means of broadcast media or newspaper'' after ''notification''.

Subsec. (c)(2)(D) to (F). Pub. L. 114–322, § 2106(a)(3)(C), (D), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (c)(3)(B). Pub. L. 114–322, § 2106(a)(4), substituted ''subparagraph (A),'' for ''subparagraph (A) and'' and ''subparagraph (C) or (E) of paragraph (2), and notices issued by the Administrator with respect to public water systems serving Indian Tribes under subparagraph (D) of that paragraph'' for ''subparagraph (C) or (D) of paragraph (2)''.

Subsec. (c)(4)(B). Pub. L. 114–322, § 2106(a)(5)(C), substituted ''clause (iii)(V)'' for ''subclause (IV) of clause (iii)'' in concluding provisions.

Subsec. (c)(4)(B)(ii). Pub. L. 114–322, § 2106(a)(5)(A), substituted ''the terms 'action level','' for ''the terms''.

Subsec. (c)(4)(B)(iii). Pub. L. 114–322, § 2106(a)(5)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: ''If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).''

Subsec. (c)(5), (6). Pub. L. 114–322, § 2106(a)(6), added pars. (5) and (6).

2002—Subsec. (i)(1). Pub. L. 107–188 inserted ''300i–2'' after ''300g–6''.

1996—Subsec. (a)(1)(A). Pub. L. 104–182, § 113(a)(1)(A)(i)(II), substituted ''with the requirement'' for ''with such regulation or requirement'' in concluding provisions.

Subsec. (a)(1)(A)(i). Pub. L. 104–182, § 113(a)(1)(A)(i)(I), substituted ''any applicable requirement'' for ''any national primary drinking water regulation in effect under section 300g–1 of this title''.

Subsec. (a)(1)(B). Pub. L. 104–182, § 113(a)(1)(A)(ii), substituted ''such applicable requirement'' for ''such regulation or requirement''.

Subsec. (a)(2). Pub. L. 104–182, § 113(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''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 300g–4(a)(2) or an exemption under section 300g–5(f) of this title is not in effect, does not comply with any national primary drinking water regulation in effect under section 300g–1 of this title, or

''(B) for which a variance under section 300g–4(a)(2) or an exemption under section 300g–5(f) of this title is in effect, does not comply with any schedule or other requirement imposed pursuant thereto,

the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b) of this section.''

Subsec. (b). Pub. L. 104–182, § 113(a)(2), substituted ''any applicable requirement'' for ''a national primary drinking water regulation'' in introductory provisions.

Subsec. (c). Pub. L. 104–182, § 114(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to notice of owner or operator of public water system to persons served, regulations for form, manner, and frequency of notice, amendment of regulations to provide different types and frequencies of notice, and penalties.

Subsec. (g)(1). Pub. L. 104–182, § 113(a)(3)(A), substituted ''applicable requirement'' for ''regulation, schedule, or other requirement'' in two places.

Subsec. (g)(2). Pub. L. 104–182, § 113(a)(3)(B), substituted ''effect, in the case'' for ''effect until after notice and opportunity for public hearing and, in the case'' and ''regarding the order'' for ''regarding the proposed order'' and struck out ''proposed to be'' after ''A copy of any order''.

Subsec. (g)(3)(B). Pub. L. 104–182, § 113(a)(3)(C)(i), added subpar. (B) and struck out former subpar. (B) which read as follows: ''Whenever any civil penalty sought by the Administrator under this paragraph does not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5.''

Subsec. (g)(3)(C). Pub. L. 104–182, § 113(a)(3)(C)(ii), substituted ''subsection for a violation of an applicable requirement exceeds $25,000'' for ''paragraph exceeds $5,000''.

Subsecs. (h), (i). Pub. L. 104–182, § 113(a)(4), added subsecs. (h) and (i).

1986—Pub. L. 99–339, § 102(d)(2), substituted ''Enforcement'' for ''Failure of State to assure enforcement'' in section catchline.

Subsec. (a)(1)(A). Pub. L. 99–339, § 102(a), inserted ''and such public water system'' after ''notify the State'' in provisions following cl. (ii).

Subsec. (a)(1)(B). Pub. L. 99–339, § 102(b)(1), amended subpar. (B) generally, substituting provisions which relate to issuance of an order to public water system to comply with regulations, or commencement of civil action if the State has not commenced appropriate enforcement action for provisions which related to public notice of noncompliance and commencement of civil action by Administrator if State failed to take steps to obtain compliance by public water system.

Subsec. (a)(2). Pub. L. 99–339, § 102(b)(2), substituted ''the Administrator shall issue an order under subsection (g) of this section requiring the public water system to comply with such regulation or requirement or the Administrator shall commence a civil action under subsection (b) of this section'' for ''he may commence a civil action under subsection (b) of this section''.

Subsec. (b). Pub. L. 99–339, § 102(c), inserted '', with an order issued under subsection (g),'' before ''or with any schedule'' and substituted ''there has been a violation'' for ''there has been a willful violation'' and ''$25,000'' for ''$5,000''.

Subsec. (c). Pub. L. 99–339, § 103, substituted provisions relating to amendment of regulations within fifteen months after June 19, 1986, to provide different types and frequencies of notice based on the differences between violations which are intermittent or continuous, manner and content of notices, notice required to public served by owner or operator of public water system, and civil penalty of $25,000, for provisions relating to form, manner, and frequency of notice based on three month billing period for water bills, notice required to public served by owner or operator of public water system, and civil penalty of $5,000.

Subsec. (g). Pub. L. 99–339, § 102(d), added subsec. (g).

1977—Subsec. (c). Pub. L. 95–190 inserted provisions relating to frequency of required notice, and notice respecting contaminant levels, and substituted ''issued under this subsection'' for ''thereunder''.

§ 300g–4. Variances

(a) Characteristics of raw water sources; specific treatment technique; notice to Administrator, reasons for variance; compliance, enforcement; approval or revision of schedules and revocation of variances; review of variances and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting variances or failing to prescribe schedules; State corrective action; authority of Administrator in a State without primary enforcement responsibility; alternative treatment techniques

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 sources which are reasonably available to the systems, cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulation. A variance may be issued to a system on condition that the system install the best technology, treatment techniques, or other means, which the Administrator finds are available (taking costs into consideration), and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system. The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator. Before a State may grant a variance under this subparagraph, the State must find that the variance will not result in an unreasonable risk to health. If a State grants a public water system a variance under this subparagraph, the State shall prescribe at the the[1] time the variance is granted, a schedule for—

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

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

Before a schedule prescribed by a State pursuant to this subparagraph 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. A schedule prescribed pursuant to this subparagraph for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the State may reasonably determine).

(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

[1] So in original.

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 in the case of a variance under subparagraph (A), the basis for the finding required by that subparagraph before the granting of the variance) and documentation of the need for the variance.

(D) Each public water system's variance granted by a State under subparagraph (A) shall be conditioned by the State upon compliance by the public water system with the schedule prescribed by the State pursuant to that subparagraph. The requirements of each schedule prescribed by a State pursuant to that subparagraph shall be enforceable by the State under its laws. Any requirement of a schedule on which a variance granted under that subparagraph is conditioned may be enforced under section 300g–3 of this title as if such requirement was part of a national primary drinking water regulation.

(E) Each schedule prescribed by a State pursuant to subparagraph (A) shall be deemed approved by the Administrator unless the variance for which it was prescribed is revoked by the Administrator under subparagraph (G) or the schedule is revised by the Administrator under such subparagraph.

(F) Not later than 18 months after the effective date of the interim national primary drinking water regulations the Administrator shall complete a comprehensive review of the variances granted under subparagraph (A) (and schedules prescribed pursuant thereto) and under subparagraph (B) by the States during the one-year period beginning on such effective date. The Administrator shall conduct such subsequent reviews of variances and schedules as he deems necessary to carry out the purposes of this subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (i) provide information respecting the location of data and other information respecting the variances to be reviewed (including data and other information concerning new scientific matters bearing on such variances), and (ii) advise of the opportunity to submit comments on the variances reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review together with findings responsive to comments submitted in connection with such review.

(G)(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 prescribe schedules in accordance with subparagraph (A), the Administrator shall notify the State of his findings. In determining if a State has abused its discretion in granting variances in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the variances and if the requirements applicable to the granting of the variances were complied with. A notice under this clause 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 schedules 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 schedules 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 schedule or other requirement for a variance and if, before a revocation of such variance or a revision of such schedule or other requirement promulgated by the Administrator takes effect, the State takes corrective action with respect to such variance or schedule or other requirement which the Administrator determines makes his finding inapplicable to such variance or schedule or other requirement, the Administrator shall rescind the application of his finding to that variance or schedule or other requirement. No variance revocation or revised schedule or other requirement may take effect before the expiration of 90 days following the date of the notice in which the revocation or revised schedule 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) Enforcement of schedule or other requirement

Any schedule or other requirement on which a variance granted under paragraph (1)(B) or (2) of subsection (a) is conditioned may be enforced under section 300g–3 of this title as if such schedule or other requirement was part of a national primary drinking water regulation.

(c) Applications for variances; regulations: reasonable time for acting

If an application for a variance under subsection (a) is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(d) "Treatment technique requirement" defined

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 300f(1)(C)(ii) of this title) 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 300g–1(b) of this title.

(e) Small system variances

(1) In general

A State exercising primary enforcement responsibility for public water systems under section 300g–2 of this title (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

(A) public water systems serving 3,300 or fewer persons; and

(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

(2) Availability of variances

A public water system may receive a variance pursuant to paragraph (1), if—

(A) the Administrator has identified a variance technology under section 300g–1(b)(15) of this title that is applicable to the size and source water quality conditions of the public water system;

(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

(3) Conditions for granting variances

A variance under this subsection shall be available only to a system—

(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title), with a national primary drinking water regulation, including compliance through—

(i) treatment;

(ii) alternative source of water supply; or

(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) makes a written determination that restructuring or consolidation is not practicable); and

(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

(4) Compliance schedules

A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 300j–12 of this title or any other Federal or State program.

(5) Duration of variances

The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 300g–2 of this title) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

(6) Ineligibility for variances

A variance shall not be available under this subsection for—

(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drink-

ing water regulation was promulgated prior to January 1, 1986; or

(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

(7) Regulations and guidance

(A) In general

Not later than 2 years after August 6, 1996, and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 300g–1(b)(15) of this title) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 300g–1(b)(15)(A) of this title); and

(iv) information requirements for variance applications.

(B) Affordability criteria

Not later than 18 months after August 6, 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

(8) Review by the Administrator

(A) In general

The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 300g–2 of this title with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

(B) Notice and publication

If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

(9) Approval of variances

A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator.

(10) Objections to variances

(A) By the Administrator

The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

(B) Petition by consumers

Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 300g–2 of this title proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

(C) Timing

No variance shall be granted by a State until the later of the following:

(i) 90 days after the State proposes to grant a variance.

(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.

(July 1, 1944, ch. 373, title XIV, § 1415, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1669; amended Pub. L. 99–339, title I, § 104, June 19, 1986, 100 Stat. 649; Pub. L. 104–182, title I,

§§ 102(c)(1), 115, 116, title V, § 501(a)(3), Aug. 6, 1996, 110 Stat. 1621, 1641, 1691.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104–182, § 501(a)(3), inserted ''the'' before ''time the variance is granted,'' in introductory provisions.

Pub. L. 104–182, § 115, in second sentence, substituted ''be issued to a system on condition that the system install'' for ''only be issued to a system after the system's application of'' and inserted '', and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system'' after ''(taking costs into consideration)''.

Subsec. (d). Pub. L. 104–182, § 102(c)(1), substituted ''section 300g–1(b)'' for ''section 300g–1(b)(3)''.

Subsec. (e). Pub. L. 104–182, § 116, added subsec. (e).

1986—Subsec. (a)(1)(A). Pub. L. 99–339, § 104(1)–(3), substituted ''such drinking water regulation. A variance may only be issued to a system after the system's application'' for ''such drinking water regulation despite application'', struck out ''generally'' after ''finds are'', inserted provisions relating to proposal and promulgation by Administrator of a finding on best available technology, treatment techniques or other means available for each contaminant at time of proposal and promulgation of maximum contaminant levels, and substituted ''at the time'' for ''within one year of the date''.

Subsec. (a)(1)(A)(ii). Pub. L. 99–339, § 104(4), substituted ''water system of such additional control'' for ''water system of such control''.

§ 300g–5. Exemptions

(a) Requisite findings

A State which has primary enforcement responsibility may exempt any public water 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, including qualification of the public water system as a system serving a disadvantaged community pursuant to section 300j–12(d) of this title), the public water system is unable to comply with such contaminant level or treatment technique requirement, or to implement measures to develop an alternative source of water supply,

(2) the public water system was in operation on the effective date of such contaminant level or treatment technique requirement, or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,

(3) the granting of the exemption will not result in an unreasonable risk to health;[1] and

(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this subchapter or, if compliance cannot be achieved, improve the quality of the drinking water.

[1] So in original. The semicolon probably should be a comma.

(b) Compliance schedule and implementation of control measures; notice and hearing; dates for compliance with schedule; compliance, enforcement; approval or revision of schedules and revocation of exemptions

(1) If a State grants a public water system an exemption under subsection (a), the State shall prescribe, at the time the exemption is granted, a schedule for—

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

(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 not later than 3 years after the otherwise applicable compliance date established in section 300g–1(b)(10) of this title.

(B) No exemption shall be granted unless the public water system establishes that—

(i) the system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to section 300g–1(b)(10) of this title;

(ii) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance or assistance pursuant to section 300j–12 of this title, or any other Federal or State program is reasonably likely to be available within the period of the exemption; or

(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and

the system is taking all practicable steps to meet the standard.

(C) In the case of a system which does not serve more than a population of 3,300 and which needs financial assistance for the necessary improvements, an exemption granted under clause (i) or (ii) of subparagraph (B) may be renewed for one or more additional 2-year periods, but not to exceed a total of 6 years, if the system establishes that it is taking all practicable steps to meet the requirements of subparagraph (B).

(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 300g–4(e) of this title.

(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 300g–3 of this title 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.

(c) Notice to Administrator; reasons for exemption

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 (including the basis for the finding required by subsection (a)(3) before the exemption may be granted) and document the need for the exemption.

(d) Review of exemptions and schedules; publication in Federal Register, notice and results of review; notice to State; considerations respecting abuse of discretion in granting exemptions or failing to prescribe schedules; State corrective action

(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 subchapter, but each subsequent review shall be completed within each 3-year period following the completion of the first review under this subparagraph. Before conducting any review under this subparagraph, the Administrator shall publish notice of the proposed review in the Federal Register. Such notice shall (A) provide information respecting the location of data and other information respecting the exemptions to be reviewed (including data and other information concerning new scientific matters bearing on such exemptions), and (B) advise of the opportunity to submit comments on the exemptions reviewed and on the need for continuing them. Upon completion of any such review, the Administrator shall publish in the Federal Register the results of his review, together with findings responsive to comments submitted in connection with such review.

(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 findings. In determining if a State has abused its discretion in granting exemptions in a substantial number of instances, the Administrator shall consider the number of persons who are affected by the exemptions and if the requirements applicable to the granting of the exemptions were complied with. A notice under this subparagraph 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 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) "Treatment technique requirement" defined

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 300f(1)(C)(ii) of this title) 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 300g–1(b) of this title.

(f) Authority of Administrator in a State without primary enforcement responsibility

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.

(g) Applications for exemptions; regulations; reasonable time for acting

If an application for an exemption under this section is made, the State receiving the application or the Administrator, as the case may be, shall act upon such application within a reasonable period (as determined under regulations prescribed by the Administrator) after the date of its submission.

(July 1, 1944, ch. 373, title XIV, § 1416, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1672; amended Pub. L. 95–190, § 10(a), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 96–502, §§ 1, 4(b), Dec. 5, 1980, 94 Stat. 2737, 2738; Pub. L. 99–339, title I, §§ 101(c)(4), 105, June 19, 1986, 100 Stat. 646, 649; Pub. L. 104–182, title I, § 117(a), Aug. 6, 1996, 110 Stat. 1644.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–182, § 117(a)(1), inserted ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 300j–12(d) of this title" after "(which may include economic factors" and "or to implement measures to develop an alternative source of water supply," after "treatment technique requirement,".

Subsec. (a)(4). Pub. L. 104–182, § 117(a)(2), added par. (4).

Subsec. (b)(1)(A). Pub. L. 104–182, § 117(a)(3), substituted "(including increments of progress or measures to develop an alternative source of water supply)" for "(including increments of progress)" and "requirement or treatment" for "requirement and treatment".

Subsec. (b)(2)(A). Pub. L. 104–182, § 117(a)(4)(A), substituted "not later than 3 years after the otherwise applicable compliance date established in section 300g–1(b)(10) of this title." for "(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 national primary drinking water regulations promulgated under section 300g–1(a) of this title, not later than 12 months after June 19, 1986; and

"(ii) in the case of an exemption granted with respect to a contaminant level or treatment technique requirement prescribed by national primary drinking water regulations, other than a regulation referred to in section 300g–1(a) of this title, 12 months after the date of the issuance of the exemption."

Subsec. (b)(2)(B). Pub. L. 104–182, § 117(a)(4)(A), substituted "No exemption shall be granted unless" for "The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed 3 years after the date of the issuance of the exemption if" in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 104–182, § 117(a)(4)(B), substituted "prior to the date established pursuant to section 300g–1(b)(10) of this title" for "within the period of such exemption".

Subsec. (b)(2)(B)(ii). Pub. L. 104–182, § 117(a)(4)(C), inserted "or assistance pursuant to section 300j–12 of this title, or any other Federal or State program is reasonably likely to be available within the period of the exemption" after "such financial assistance".

Subsec. (b)(2)(C). Pub. L. 104–182, § 117(a)(4)(D), substituted "a population of 3,300" for "500 service connections" and inserted ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods".

Subsec. (b)(2)(D). Pub. L. 104–182, § 117(a)(4)(E), added subpar. (D).

1986—Subsec. (b)(1). Pub. L. 99–339, § 105(a)(1), substituted "at the time" for "within one year of the date".

Subsec. (b)(2)(A)(i). Pub. L. 99–339, § 105(a)(2), struck out "interim" before "national primary" and substituted "not later than 12 months after June 19, 1986" for "not later than January 1, 1984".

Subsec. (b)(2)(A)(ii). Pub. L. 99–339, § 105(a)(3), struck out "revised" before "national primary" and substituted "other than a regulation referred to in section 300g–1(a) of this title, 12 months after the date of the issuance of the exemption" for "not later than seven years after the date such requirement takes effect".

Subsec. (b)(2)(B). Pub. L. 99–339, § 105(a)(4), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "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, 1986; 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."

Subsec. (b)(2)(C). Pub. L. 99–339, § 105(a)(4), added subpar. (C).

Subsec. (e). Pub. L. 99–339, § 101(c)(4), substituted "300g–1(b)" for "300g–1(b)(3)".

1980—Subsec. (a)(2). Pub. L. 96–502, § 4(b), substituted "treatment technique requirement, or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system, and" for "treatment technique requirement, and".

Subsec. (b)(2)(A)(i). Pub. L. 96–502, § 1, substituted "January 1, 1984" for "January 1, 1981".

Subsec. (b)(2)(B)(i). Pub. L. 96–502, § 1, substituted "January 1, 1986" for "January 1, 1983".

1977—Subsec. (b)(1). Pub. L. 95–190 substituted "contaminant" for "containment" wherever appearing.

§ 300g–6. Prohibition on use of lead pipes, solder, and flux

(a) In general

(1) Prohibitions

(A) In general

No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

(i) any public water system; or

(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

(B) Leaded joints

Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.

(2) Public notice requirements

(A) In general

Each owner or operator of a public water system shall identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from either or both of the following:

(i) The lead content in the construction materials of the public water distribution system.

(ii) Corrosivity of the water supply sufficient to cause leaching of lead.

The notice shall be provided in such manner and form as may be reasonably required by the Administrator. Notice under this paragraph shall be provided notwithstanding the absence of a violation of any national drinking water standard.

(B) Contents of notice

Notice under this paragraph shall provide a clear and readily understandable explanation of—

(i) the potential sources of lead in the drinking water,

(ii) potential adverse health effects,

(iii) reasonably available methods of mitigating known or potential lead content in drinking water,

(iv) any steps the system is taking to mitigate lead content in drinking water, and

(v) the necessity for seeking alternative water supplies, if any.

(3) Unlawful acts

Effective 2 years after August 6, 1996, it shall be unlawful—

(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(4) Exemptions

The prohibitions in paragraphs (1) and (3) shall not apply to—

(A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(B) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, fire hydrants, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

(b) State enforcement

(1) Enforcement of prohibition

The requirements of subsection (a)(1) shall be enforced in all States effective 24 months after June 19, 1986. States shall enforce such requirements through State or local plumbing codes, or such other means of enforcement as the State may determine to be appropriate.

(2) Enforcement of public notice requirements

The requirements of subsection (a)(2) shall apply in all States effective 24 months after June 19, 1986.

(c) Penalties

If the Administrator determines that a State is not enforcing the requirements of subsection (a) as required pursuant to subsection (b), the Administrator may withhold up to 5 percent of Federal funds available to that State for State program grants under section 300j–2(a) of this title.

(d) Definition of lead free

(1) In general

For the purposes of this section, the term ''lead free'' means—

(A) not containing more than 0.2 percent lead when used with respect to solder and flux; and

(B) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

(2) Calculation

The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with paragraph (1)(B). For lead content of materials that are provided as a range, the maximum content of the range shall be used.

(e) Plumbing fittings and fixtures

(1) In general

The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

(2) Standards

(A) In general

If a voluntary standard for the leaching of lead is not established by the date that is 1

year after August 6, 1996, the Administrator shall, not later than 2 years after August 6, 1996, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

(B) Alternative requirement

If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after August 6, 1996, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.

(f) Public education

(1) In general

The Administrator shall make information available to the public regarding lead in drinking water, including information regarding—

(A) risks associated with lead in drinking water;

(B) the conditions that contribute to drinking water containing lead in a residence;

(C) steps that States, public water systems, and consumers can take to reduce the risks of lead in drinking water; and

(D) the availability of additional resources that consumers can use to minimize lead exposure, including information on sampling for lead in drinking water.

(2) Vulnerable populations

In making information available to the public under this subsection, the Administrator shall, subject to the availability of appropriations, carry out targeted outreach strategies that focus on educating groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to lead in drinking water.

(July 1, 1944, ch. 373, title XIV, § 1417, as added Pub. L. 99–339, title I, § 109(a), June 19, 1986, 100 Stat. 651; amended Pub. L. 104–182, title I, § 118, title V, § 501(f)(1), Aug. 6, 1996, 110 Stat. 1645, 1691; Pub. L. 111–380, § 2(a), Jan. 4, 2011, 124 Stat. 4131; Pub. L. 113–64, § 2, Dec. 20, 2013, 127 Stat. 668; Pub. L. 114–322, title II, § 2106(b), Dec. 16, 2016, 130 Stat. 1726.)

Editorial Notes

AMENDMENTS

2016—Subsec. (f). Pub. L. 114–322 added subsec. (f).

2013—Subsec. (a)(4)(B). Pub. L. 113–64 inserted ''fire hydrants,'' after ''shower valves,''.

2011—Subsec. (a)(4). Pub. L. 111–380, § 2(a)(1), added par. (4).

Subsec. (d). Pub. L. 111–380, § 2(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined ''lead free'' when used with respect to solders and flux, pipes and pipe fittings, and plumbing fittings and fixtures.

1996—Pub. L. 104–182, § 501(f)(1), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (a)(1). Pub. L. 104–182, § 118(1), substituted ''Prohibitions'' for ''Prohibition'' in heading and amended text generally. Prior to amendment, text read as follows: ''Any pipe, solder, or flux, which is used after June 19, 1986, in the installation or repair of—

''(A) any public water system, or

''(B) any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system,

shall be lead free (within the meaning of subsection (d) of this section). This paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes.''

Subsec. (a)(2)(A). Pub. L. 104–182, § 118(2), inserted ''owner or operator of a'' after ''Each'' in introductory provisions.

Subsec. (a)(3). Pub. L. 104–182, § 118(3), added par. (3).

Subsec. (d)(3). Pub. L. 104–182, § 118(4), added par. (3).

Subsec. (e). Pub. L. 104–182, § 118(5), added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–380, § 2(b), Jan. 4, 2011, 124 Stat. 4132, provided that: ''The provisions of subsections (a)(4) and (d) of section 1417 of the Safe Drinking Water Act [42 U.S.C. 300g–6(a)(4), (d)], as added by this section, apply beginning on the day that is 36 months after the date of the enactment of this Act [Jan. 4, 2011].''

EVALUATION OF SOURCES OF LEAD IN WATER DISTRIBUTION SYSTEMS AND ALTERNATE ROUTING SYSTEMS

Pub. L. 113–64, § 3, Dec. 20, 2013, 127 Stat. 668, provided that: ''The Administrator of the Environmental Protection Agency shall—

''(1) consult with and seek the advice of the National Drinking Water Advisory Council on potential changes to the regulations pertaining to lead under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

''(2) request the Council to consider sources of lead throughout drinking water distribution systems, including through components used to reroute drinking water during distribution system repairs.''

NOTIFICATION TO STATES

Pub. L. 99–339, title I, § 109(b), June 19, 1986, 100 Stat. 652, provided that: ''The Administrator of the Environmental Protection Agency shall notify all States with respect to the requirements of section 1417 of the Public Health Service Act [42 U.S.C. 300g–6] within 90 days after the enactment of this Act [June 19, 1986].''

BAN ON LEAD WATER PIPES, SOLDER, AND FLUX IN VA AND HUD INSURED OR ASSISTED PROPERTY

Pub. L. 99–339, title I, § 109(c), June 19, 1986, 100 Stat. 652, as amended by Pub. L. 102–54, § 13(q)(2), June 13, 1991, 105 Stat. 279, provided that:

''(1) PROHIBITION.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs may not insure or guarantee a mortgage or furnish assistance with respect to newly constructed residential property which contains a potable water system unless such system uses only lead free pipe, solder, and flux.

''(2) DEFINITION OF LEAD FREE.—For purposes of paragraph (1) the term 'lead free'—

''(A) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and

''(B) when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

''(3) EFFECTIVE DATE.—Paragraph (1) shall become effective 24 months after the enactment of this Act [June 19, 1986].''

§ 300g–7. Monitoring of contaminants

(a) Interim monitoring relief authority

(1) In general

A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system; and

(B) the State, considering the hydrogeology of the area and other relevant factors, determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

(2) Termination; timing of monitoring

The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after August 6, 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

(b) Permanent monitoring relief authority

(1) In general

Each State exercising primary enforcement responsibility for public water systems under this subchapter and having an approved source water assessment program may adopt, in accordance with guidance published by the Administrator, tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, or wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection byproducts, or corrosion byproducts. The preceding sentence is not intended to limit other authority of the Administrator under other provisions of this subchapter to grant monitoring flexibility.

(2) Guidelines

(A) In general

The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 300j–13 of this title, guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

(B) Definition

For purposes of subparagraph (A), the phrase ''reliably and consistently below the maximum contaminant level'' means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

(3) Effect of detection of contaminants

The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem; or

(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

(4) States not exercising primary enforcement responsibility

The Governor of any State not exercising primary enforcement responsibility under section 300g–2 of this title on August 6, 1996, may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subsection that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

(c) Treatment as NPDWR

All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) shall be treated as part of the national primary drinking water regulation for that contaminant.

(d) Other monitoring relief

Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.

(July 1, 1944, ch. 373, title XIV, § 1418, as added Pub. L. 104–182, title I, § 125(b), Aug. 6, 1996, 110 Stat. 1654.)

§ 300g–8. Operator certification

(a) Guidelines

Not later than 30 months after August 6, 1996, and in cooperation with the States, the Administrator shall publish guidelines in the Federal Register, after notice and opportunity for comment from interested persons, including States and public water systems, specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such guidelines shall take into account existing State programs, the complexity of the system, and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

(b) State programs

Beginning 2 years after the date on which the Administrator publishes guidelines under subsection (a), the Administrator shall withhold 20 percent of the funds a State is otherwise entitled to receive under section 300j–12 of this title unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of the guidelines published pursuant to subsection (a) or that has been submitted in compliance with subsection (c) and that has not been disapproved.

(c) Existing programs

For any State exercising primary enforcement responsibility for public water systems or any other State which has an operator certification program, the guidelines under subsection (a) shall allow the State to enforce such program in lieu of the guidelines under subsection (a) if the State submits the program to the Administrator within 18 months after the publication of the guidelines unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such guidelines. In making this determination, an existing State program shall be presumed to be substantially equivalent to the guidelines, notwithstanding program differences, based on the size of systems or the quality of source water, providing the State program meets the overall public health objectives of the guidelines. If disapproved, the program may be resubmitted within 6 months after receipt of notice of disapproval.

(d) Expense reimbursement

(1) In general

The Administrator shall provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to this section.

(2) State grants

The reimbursement shall be provided through grants to States with each State receiving an amount sufficient to cover the reasonable costs for training all such operators in the State, as determined by the Administrator, to the extent required by this section. Grants received by a State pursuant to this paragraph shall first be used to provide reimbursement for training and certification costs of persons operating systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for grants under section 300j–12 of this title.

(3) Authorization

There are authorized to be appropriated to the Administrator to provide grants for reimbursement under this section $30,000,000 for each of fiscal years 1997 through 2003.

(4) Reservation

If the appropriation made pursuant to paragraph (3) for any fiscal year is not sufficient to satisfy the requirements of paragraph (1), the Administrator shall, prior to any other allocation or reservation, reserve such sums as necessary from the funds appropriated pursuant

to section 300j–12(m) of this title to provide reimbursement for the training and certification costs mandated by this subsection.

(July 1, 1944, ch. 373, title XIV, § 1419, as added Pub. L. 104–182, title I, § 123, Aug. 6, 1996, 110 Stat. 1652.)

§ 300g–9. Capacity development

(a) State authority for new systems

A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 300j–12 of this title (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

(b) Systems in significant noncompliance

(1) List

Beginning not later than 1 year after August 6, 1996, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this subchapter (as defined in guidelines issued prior to August 6, 1996, or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

(2) Report

Not later than 5 years after August 6, 1996, and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

(3) Withholding

The list and report under this subsection shall be considered part of the capacity development strategy of the State required under subsection (c) of this section for purposes of the withholding requirements of section 300j–12(a)(1)(G)(i) of this title (relating to State loan funds).

(c) Capacity development strategy

(1) In general

Beginning 4 years after August 6, 1996, a State shall receive only—

(A) 90 percent in fiscal year 2001;

(B) 85 percent in fiscal year 2002; and

(C) 80 percent in each subsequent fiscal year,

of the allotment that the State is otherwise entitled to receive under section 300j–12 of this title (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

(2) Content

In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

(C) a description of how the State will use the authorities and resources of this subchapter or other means to—

(i) assist public water systems in complying with national primary drinking water regulations;

(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(iii) assist public water systems in the training and certification of operators;

(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law;

(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers); and

(F) a description of how the State will, as appropriate—

(i) encourage development by public water systems of asset management plans that include best practices for asset management; and

(ii) assist, including through the provision of technical assistance, public water systems in training operators or other relevant and appropriate persons in implementing such asset management plans.

(3) Report

Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this subchapter in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State, including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans.

(4) Review

The decisions of the State under this section regarding any particular public water system

are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 300j–12 of this title.

(d) Federal assistance

(1) In general

The Administrator shall support the States in developing capacity development strategies.

(2) Informational assistance

(A) In general

Not later than 180 days after August 6, 1996, the Administrator shall—

(i) conduct a review of State capacity development efforts in existence on August 6, 1996, and publish information to assist States and public water systems in capacity development efforts; and

(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

(B) Publication of information

The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after August 6, 1996.

(3) Promulgation of drinking water regulations

In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

(4) Guidance for new systems

Not later than 2 years after August 6, 1996, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

(5) Information on asset management practices

Not later than 5 years after October 23, 2018, and not less often than every 5 years thereafter, the Administrator shall review and, if appropriate, update educational materials, including handbooks, training materials, and technical information, made available by the Administrator to owners, managers, and operators of public water systems, local officials, technical assistance providers (including nonprofit water associations), and State personnel concerning best practices for asset management strategies that may be used by public water systems.

(e) Variances and exemptions

Based on information obtained under subsection (c)(3), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 300g–4 or 300g–5 of this title.

(f) Small public water systems technology assistance centers

(1) Grant program

The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

(2) Responsibilities of the centers

The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

(3) Applications

Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) Selection criteria

The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

(C) The grant recipient shall have access to expertise in small public water system technology management.

(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

(F) The grant recipient has regional support beyond the host institution.

(5) Consortia of States

At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

(6) Authorization of appropriations

There are authorized to be appropriated to make grants under this subsection $2,000,000 for each of the fiscal years 1997 through 1999, and $5,000,000 for each of the fiscal years 2000 through 2003.

(g) Environmental finance centers

(1) In general

The Administrator shall provide initial funding for one or more university-based envi-

ronmental finance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this subchapter.

(2) National capacity development clearinghouse

The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

(3) Capacity development techniques

The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $1,500,000 for each of the fiscal years 1997 through 2003.

(5) Limitation

No portion of any funds made available under this subsection may be used for lobbying expenses.

(July 1, 1944, ch. 373, title XIV, § 1420, as added Pub. L. 104–182, title I, § 119, Aug. 6, 1996, 110 Stat. 1647; amended Pub. L. 115–270, title II, § 2012, Oct. 23, 2018, 132 Stat. 3849.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(2)(F). Pub. L. 115–270, § 2012(1), added subpar. (F).

Subsec. (c)(3). Pub. L. 115–270, § 2012(2), inserted ‘‘, including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans’’ before period at end.

Subsec. (d)(5). Pub. L. 115–270, § 2012(3), added par. (5).

§ 300g–10. Cybersecurity support for public water systems

(a) Definitions

In this section:

(1) Appropriate Congressional committees

The term ‘‘appropriate Congressional committees’’ means—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Energy and Commerce of the House of Representatives; and

(D) the Committee on Homeland Security of the House of Representatives.

(2) Director

The term ‘‘Director’’ means the Director of the Cybersecurity and Infrastructure Security Agency.

(3) Incident

The term ‘‘incident’’ has the meaning given the term in section 3552 of title 44.

(4) Prioritization Framework

The term ‘‘Prioritization Framework’’ means the prioritization framework developed by the Administrator under subsection (b)(1)(A).

(5) Support Plan

The term ‘‘Support Plan’’ means the Technical Cybersecurity Support Plan developed by the Administrator under subsection (b)(2)(A).

(b) Identification of and support for public water systems

(1) Prioritization Framework

(A) In general

Not later than 180 days after November 15, 2021, the Administrator, in coordination with the Director, shall develop a prioritization framework to identify public water systems (including sources of water for those public water systems) that, if degraded or rendered inoperable due to an incident, would lead to significant impacts on the health and safety of the public.

(B) Considerations

In developing the Prioritization Framework, to the extent practicable, the Administrator shall incorporate consideration of—

(i) whether cybersecurity vulnerabilities for a public water system have been identified under section 300i–2 of this title;

(ii) the capacity of a public water system to remediate a cybersecurity vulnerability without additional Federal support;

(iii) whether a public water system serves a defense installation or critical national security asset; and

(iv) whether a public water system, if degraded or rendered inoperable due to an incident, would cause a cascading failure of other critical infrastructure.

(2) Technical Cybersecurity Support Plan

(A) In general

Not later than 270 days after November 15, 2021, the Administrator, in coordination with the Director and using existing authorities of the Administrator and the Director for providing voluntary support to public water systems and the Prioritization Framework, shall develop a Technical Cybersecurity Support Plan for public water systems.

(B) Requirements

The Support Plan—

(i) shall establish a methodology for identifying specific public water systems for which cybersecurity support should be prioritized;

(ii) shall establish timelines for making voluntary technical support for

cybersecurity available to specific public water systems;

(iii) may include public water systems identified by the Administrator, in coordination with the Director, as needing technical support for cybersecurity;

(iv) shall include specific capabilities of the Administrator and the Director that may be utilized to provide support to public water systems under the Support Plan, including—

(I) site vulnerability and risk assessments;

(II) penetration tests; and

(III) any additional support determined to be appropriate by the Administrator; and

(v) shall only include plans for providing voluntary support to public water systems.

(3) Consultation required

In developing the Prioritization Framework pursuant to paragraph (1) and the Support Plan pursuant to paragraph (2), the Administrator shall consult with such Federal or non-Federal entities as determined to be appropriate by the Administrator.

(4) Reports required

(A) Prioritization Framework

Not later than 190 days after November 15, 2021, the Administrator shall submit to the appropriate Congressional committees a report describing the Prioritization Framework.

(B) Technical Cybersecurity Support Plan

Not later than 280 days after November 15, 2021, the Administrator shall submit to the appropriate Congressional committees—

(i) the Support Plan; and

(ii) a list describing any public water systems identified by the Administrator, in coordination with the Director, as needing technical support for cybersecurity during the development of the Support Plan.

(c) Rules of construction

Nothing in this section—

(1) alters the existing authorities of the Administrator; or

(2) compels a public water system to accept technical support offered by the Administrator.

(July 1, 1944, ch. 373, title XIV, § 1420A, as added Pub. L. 117–58, div. E, title I, § 50113, Nov. 15, 2021, 135 Stat. 1155.)

PART C—PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

§ 300h. Regulations for State programs

(a) Publication of proposed regulations; promulgation; amendments; public hearings; administrative consultations

(1) The Administrator shall publish proposed regulations for State underground injection control programs within 180 days after December 16, 1974. 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 (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) Minimum requirements; restrictions

(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 regulations shall require that a State program, in order to be approved under section 300h–1 of this title—

(A) shall prohibit, effective on the date on which the applicable underground injection control program takes effect, 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 drinking water sources;

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

(D) shall apply (i) as prescribed by section 300j–6(b)[1] of this title, 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 of the Administrator under this section 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 natural gas storage operations, 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.

(3)(A) The regulations of the Administrator under this section shall permit or provide for consideration of varying geologic, hydrological, or historical conditions in different States and in different areas within a State.

[1] See References in Text note below.

(B)(i) In prescribing regulations under this section the Administrator shall, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States.

(ii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed to disrupt a State underground injection control program only if it would be infeasible to comply with both such regulation and the State underground injection control program.

(iii) For the purpose of this subparagraph, a regulation prescribed by the Administrator under this section shall be deemed unnecessary only if, without such regulation, underground sources of drinking water will not be endangered by an underground injection.

(C) Nothing in this section shall be construed to alter or affect the duty to assure that underground sources of drinking water will not be endangered by any underground injection.

(c) Temporary permits; notice and hearing

(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 December 16, 1974, 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 hearing, one or more temporary 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 December 16, 1974, if the State finds, 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) "Underground injection" defined; underground injection endangerment of drinking water sources

For purposes of this part:

(1) UNDERGROUND INJECTION.—The term "underground injection"—

(A) means the subsurface emplacement of fluids by well injection; and

(B) excludes—

(i) the underground injection of natural gas for purposes of storage; and

(ii) the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

(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.

(July 1, 1944, ch. 373, title XIV, § 1421, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1674; amended Pub. L. 95–190, § 6(b), Nov. 16, 1977, 91 Stat. 1396; Pub. L. 96–502, §§ 3, 4(c), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title II, § 201(a), June 19, 1986, 100 Stat. 653; Pub. L. 104–182, title V, § 501(b)(1), Aug. 6, 1996, 110 Stat. 1691; Pub. L. 109–58, title III, § 322, Aug. 8, 2005, 119 Stat. 694.)

Editorial Notes

REFERENCES IN TEXT

Section 300j–6(b) of this title, referred to in subsec. (b)(1)(D), was repealed, and a new section 300j–6(b) relating to administrative penalty orders was added, by Pub. L. 104–182, title I, § 129(a), Aug. 6, 1996, 110 Stat. 1660.

AMENDMENTS

2005—Subsec. (d)(1). Pub. L. 109–58 inserted heading and amended text of par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'underground injection' means the subsurface emplacement of fluids by well injection. Such term does not include the underground injection of natural gas for purposes of storage."

1996—Subsec. (b)(3)(B)(i). Pub. L. 104–182 substituted "number of States" for "number or States".

1986—Subsec. (b)(2)(A). Pub. L. 99–339 inserted "or natural gas storage operations" after "production".

1980—Subsec. (b)(1)(A). Pub. L. 96–502, § 4(c), substituted "effective on the date on which the applicable underground injection control program takes effect" for "effective three years after December 16, 1974".

Subsec. (d)(1). Pub. L. 96–502, § 3, inserted provision that such term does not include the underground injection of natural gas for purposes of storage.

1977—Subsec. (b)(3). Pub. L. 95–190 added par. (3).

§ 300h–1. State primary enforcement responsibility

(a) List of States in need of a control program; amendment of list

Within 180 days after December 16, 1974, 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) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing

(1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 300h of this title (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 300h of this title; and

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

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 300h of this title 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) Program by Administrator for State without primary enforcement responsibility; restrictions

If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), 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 the date of such disapproval, determination, or expiration (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 300h(b) of this title. 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 natural gas storage operations, 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 meets 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) "Applicable underground injection control program" defined

For purposes of this subchapter, 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).

(e) Primary enforcement responsibility by Indian Tribe

An Indian Tribe may assume primary enforcement responsibility for underground injection control under this section consistent with such regulations as the Administrator has prescribed pursuant to this part and section 300j–11 of this title. The area over which such Indian Tribe exercises governmental jurisdiction need not have been listed under subsection (a) of this section, and such Tribe need not submit an application to assume primary enforcement responsibility within the 270-day deadline noted in subsection (b)(1)(A) of this section. Until an Indian Tribe assumes primary enforcement responsibility, the currently applicable underground injection control program shall continue to apply. If an applicable underground injection control program does not exist for an Indian Tribe, the Administrator shall prescribe such a program pursuant to subsection (c) of this section, and consistent with section 300h(b) of this title, within 270 days after June 19, 1986, unless an Indian

Tribe first obtains approval to assume primary enforcement responsibility for underground injection control.

(July 1, 1944, ch. 373, title XIV, § 1422, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1676; amended Pub. L. 95–190, § 6(a), Nov. 16, 1977, 91 Stat. 1396; Pub. L. 99–339, title II, § 201(a), title III, § 302(c), June 19, 1986, 100 Stat. 653, 666.)

Editorial Notes

AMENDMENTS

1986—Subsec. (c)(1). Pub. L. 99–339, § 201(a), inserted ''or natural gas storage operations, or'' after ''production''.

Subsec. (e). Pub. L. 99–339, § 302(c), added subsec. (e).

1977—Subsec. (b)(1)(A). Pub. L. 95–190 inserted provisions relating to extension of date for submission of applications by any State.

§ 300h–2. Enforcement of program

(a) Notice to State and violator; issuance of administrative order; civil action

(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 300h–1(b)(3) of this title or section 300h–4(c) of this title) 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 beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).

(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, the Administrator shall issue an order under subsection (c) requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b).

(b) Civil and criminal actions

Civil actions referred to in paragraphs (1) and (2) of subsection (a) shall be brought in the appropriate United States district court. Such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or with an order issued under subsection (c). The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program or an order requiring compliance under subsection (c)—

(1) shall be subject to a civil penalty of not more than $25,000 for each day of such violation, and

(2) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by paragraph (1), be imprisoned for not more than 3 years, or fined in accordance with title 18, or both.

(c) Administrative orders

(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to—

(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,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

(2) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, or other requirement of this part relating to—

(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,

the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $5,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

(3)(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this subparagraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the order. Such hearing shall not be subject to section 554 or 556 of title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

(C) Any citizen who comments on any proposed order under subparagraph (B) shall be given notice of any hearing under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence.

(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6).

(4)(A) Any order issued under this subsection shall state with reasonable specificity the na-

ture of the violation and may specify a reasonable time for compliance.

(B) In assessing any civil penalty under this subsection, the Administrator shall take into account appropriate factors, including (i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require.

(5) Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action, or has issued an order under this subsection assessing a penalty, shall not be subject to an action under subsection (b) of this section or section 300h–3(c) or 300j–8 of this title, except that the foregoing limitation on civil actions under section 300j–8 of this title shall not apply with respect to any violation for which—

(A) a civil action under section 300j–8(a)(1) of this title has been filed prior to commencement of an action under this subsection, or

(B) a notice of violation under section 300j–8(b)(1) of this title has been given before commencement of an action under this subsection and an action under section 300j–8(a)(1) of this title is filed before 120 days after such notice is given.

(6) Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (3) may file an appeal of such order with the United States District Court for the District of Columbia or the district in which the violation is alleged to have occurred. Such an appeal may only be filed within the 30-day period beginning on the date the order is issued. Appellant shall simultaneously send a copy of the appeal by certified mail to the Administrator and to the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which such order was imposed. The district court shall not set aside or remand such order unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Administrator's assessment of penalty or requirement for compliance constitutes an abuse of discretion. The district court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of a penalty constitutes an abuse of discretion. Notwithstanding section 300j–7(a)(2) of this title, any order issued under paragraph (3) shall be subject to judicial review exclusively under this paragraph.

(7) If any person fails to pay an assessment of a civil penalty—

(A) after the order becomes effective under paragraph (3), or

(B) after a court, in an action brought under paragraph (6), has entered a final judgment in favor of the Administrator,

the Administrator may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys' fees, and interest at currently prevailing rates from the date the order is effective or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(8) The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanction.

(d) State authority to adopt or enforce laws or regulations respecting underground injection unaffected

Nothing in this subchapter 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 subchapter.

(July 1, 1944, ch. 373, title XIV, § 1423, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1677; amended Pub. L. 96–502, § 2(b), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title II, § 202, June 19, 1986, 100 Stat. 654.)

Editorial Notes

AMENDMENTS

1986—Pub. L. 99–339, § 202(d), substituted ''Enforcement'' for ''Failure of State to assure enforcement'' in section catchline.

Subsec. (a)(1). Pub. L. 99–339, § 202(a)(1), substituted provisions which related to issuance of an order of compliance or commencement of a civil action by the Administrator if the State has not commenced enforcement against the violator for provisions directing the Administrator to give public notice and request that the State report within 15 days thereafter as to steps taken to enforce compliance and authorizing the Administrator to commence a civil action upon failure by the State to comply timely.

Subsec. (a)(2). Pub. L. 99–339, § 202(a)(2), substituted provision that the Administrator issue an order under subsec. (c) of this section or commence a civil action under subsec. (b) of this section for provision that he commence a civil action under subsec. (b)(1) of this section.

Subsec. (b). Pub. L. 99–339, § 202(b), amended subsec. (b) generally, substituting provisions relating to jurisdiction of the appropriate Federal district court, entry of judgment, civil penalty of $25,000 per day, criminal liability and fine for willful violation for provisions which related to judicial determinations in appropriate Federal district courts, civil penalties of $5,000 per day, and fines of $10,000 per day for willful violations.

Subsecs. (c), (d). Pub. L. 99–339, § 202(c), added subsec. (c) and redesignated former subsec. (c) as (d).

1980—Subsec. (a)(1). Pub. L. 96–502 inserted reference to section 300h–4(c) of this title.

§ 300h–3. Interim regulation of underground injections

(a) Necessity for well operation permit; designation of one aquifer areas

(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 end-

ing 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) Well operation permits; publication in Federal Register; notice and hearing; issuance or denial; conditions for issuance

(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) Civil penalties; separate violations; penalties for willful violations; temporary restraining order or injunction

Any person who operates a new underground injection well in violation of subsection (b), (1) shall be subject to a civil penalty of not more than $5,000 for each day in which such violation occurs, or (2) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (1), be fined not more than $10,000 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) "New underground injection well" defined

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 December 16, 1974.

(e) Areas with one aquifer; publication in Federal Register; commitments for Federal financial assistance

If the Administrator determines, on his own initiative or upon petition, that an area has an 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, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

(July 1, 1944, ch. 373, title XIV, § 1424, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1678.)

§ 300h–4. Optional demonstration by States relating to oil or natural gas

(a) Approval of State underground injection control program; alternative showing of effectiveness of program by State

For purposes of the Administrator's approval or disapproval under section 300h–1 of this title of that portion of any State underground injection control program which relates to—

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

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

in lieu of the showing required under subparagraph (A) of section 300h–1(b)(1) of this title the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 300h(b)(1) of this title and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(b) Revision or amendment of requirements of regulation; showing of effectiveness of program by State

If the Administrator revises or amends any requirement of a regulation under section 300h of this title relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 300h–1(b)(1)(B) of this title the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 300h(b)(1) of this title and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources.

(c) Primary enforcement responsibility of State; voiding by Administrator under duly promulgated rule

(1) Section 300h–1(b)(3) of this title shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 300h–1 of this title in the same manner as provided in such subsection with respect to a determination described in such subsection.

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

(July 1, 1944, ch. 373, title XIV, § 1425, as added Pub. L. 96–502, § 2(a), Dec. 5, 1980, 94 Stat. 2737; amended Pub. L. 99–339, title II, § 201(a), June 19, 1986, 100 Stat. 653.)

Editorial Notes

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–339 inserted ''or natural gas storage operations, or'' after ''production''.

§ 300h–5. Regulation of State programs

Not later than 18 months after June 19, 1986, the Administrator shall modify regulations issued under this chapter for Class I injection wells to identify monitoring methods, in addition to those in effect on November 1, 1985, including groundwater monitoring. In accordance with such regulations, the Administrator, or delegated State authority, shall determine the applicability of such monitoring methods, wherever appropriate, at locations and in such a manner as to provide the earliest possible detection of fluid migration into, or in the direction of, underground sources of drinking water from such wells, based on its assessment of the potential for fluid migration from the injection zone that may be harmful to human health or the environment. For purposes of this subsection, a class I injection well is defined in accordance with 40 CFR 146.05 as in effect on November 1, 1985.

(July 1, 1944, ch. 373, title XIV, § 1426, as added Pub. L. 99–339, title II, § 201(b), June 19, 1986, 100 Stat. 653; amended Pub. L. 104–66, title II, § 2021(f), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title V, § 501(f)(2), Aug. 6, 1996, 110 Stat. 1691.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–182 directed technical amendment of section catchline and subsec. (a) designation. The provision directing amendment of subsec. (a) designation could not be executed because section does not contain a subsec. (a).

1995—Pub. L. 104–66 struck out subsec. (a) designation and heading before ''Not later than'' and struck out heading and text of subsec. (b). Text read as follows: ''The Administrator shall submit a report to Congress, no later than September 1987, summarizing the results of State surveys required by the Administrator under this section. The report shall include each of the following items of information:

''(1) The numbers and categories of class V wells which discharge nonhazardous waste into or above an underground source of drinking water.

''(2) The primary contamination problems associated with different categories of these disposal wells.

''(3) Recommendations for minimum design, construction, installation, and siting requirements that should be applied to protect underground sources of drinking water from such contamination wherever necessary.''

§ 300h–6. Sole source aquifer demonstration program

(a) Purpose

The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers under section 300h–3(e) of this title.

(b) "Critical aquifer protection area" defined

For purposes of this section, the term ''critical aquifer protection area'' means either of the following:

(1) All or part of an area located within an area for which an application or designation as a sole or principal source aquifer pursuant to section 300h–3(e) of this title, has been submitted and approved by the Administrator and which satisfies the criteria established by the Administrator under subsection (d).

(2) All or part of an area which is within an aquifer designated as a sole source aquifer as of June 19, 1986, and for which an areawide ground water quality protection plan has been approved under section 208 of the Clean Water Act [33 U.S.C. 1288] prior to June 19, 1986.

(c) Application

Any State, municipal or local government or political subdivision thereof or any planning en-

tity (including any interstate regional planning entity) that identifies a critical aquifer protection area over which it has authority or jurisdiction may apply to the Administrator for the selection of such area for a demonstration program under this section. Any applicant shall consult with other government or planning entities with authority or jurisdiction in such area prior to application. Applicants, other than the Governor, shall submit the application for a demonstration program jointly with the Governor.

(d) Criteria

Not later than 1 year after June 19, 1986, the Administrator shall, by rule, establish criteria for identifying critical aquifer protection areas under this section. In establishing such criteria, the Administrator shall consider each of the following:

(1) The vulnerability of the aquifer to contamination due to hydrogeologic characteristics.

(2) The number of persons or the proportion of population using the ground water as a drinking water source.

(3) The economic, social and environmental benefits that would result to the area from maintenance of ground water of high quality.

(4) The economic, social and environmental costs that would result from degradation of the quality of the ground water.

(e) Contents of application

An application submitted to the Administrator by any applicant for a demonstration program under this section shall meet each of the following requirements:

(1) The application shall propose boundaries for the critical aquifer protection area within its jurisdiction.

(2) The application shall designate or, if necessary, establish a planning entity (which shall be a public agency and which shall include representation of elected local and State governmental officials) to develop a comprehensive management plan (hereinafter in this section referred to as the ''plan'') for the critical protection area. Where a local government planning agency exists with adequate authority to carry out this section with respect to any proposed critical protection area, such agency shall be designated as the planning entity.

(3) The application shall establish procedures for public participation in the development of the plan, for review, approval, and adoption of the plan, and for assistance to municipalities and other public agencies with authority under State law to implement the plan.

(4) The application shall include a hydrogeologic assessment of surface and ground water resources within the critical protection area.

(5) The application shall include a comprehensive management plan for the proposed protection area.

(6) The application shall include the measures and schedule proposed for implementation of such plan.

(f) Comprehensive plan

(1) The objective of a comprehensive management plan submitted by an applicant under this section shall be to maintain the quality of the ground water in the critical protection area in a manner reasonably expected to protect human health, the environment and ground water resources. In order to achieve such objective, the plan may be designed to maintain, to the maximum extent possible, the natural vegetative and hydrogeological conditions. Each of the following elements shall be included in such a protection plan:

(A) A map showing the detailed boundary of the critical protection area.

(B) An identification of existing and potential point and nonpoint sources of ground water degradation.

(C) An assessment of the relationship between activities on the land surface and ground water quality.

(D) Specific actions and management practices to be implemented in the critical protection area to prevent adverse impacts on ground water quality.

(E) Identification of authority adequate to implement the plan, estimates of program costs, and sources of State matching funds.

(2) Such plan may also include the following:

(A) A determination of the quality of the existing ground water recharged through the special protection area and the natural recharge capabilities of the special protection area watershed.

(B) Requirements designed to maintain existing underground drinking water quality or improve underground drinking water quality if prevailing conditions fail to meet drinking water standards, pursuant to this chapter and State law.

(C) Limits on Federal, State, and local government, financially assisted activities and projects which may contribute to degradation of such ground water or any loss of natural surface and subsurface infiltration of purification capability of the special protection watershed.

(D) A comprehensive statement of land use management including emergency contingency planning as it pertains to the maintenance of the quality of underground sources of drinking water or to the improvement of such sources if necessary to meet drinking water standards pursuant to this chapter and State law.

(E) Actions in the special protection area which would avoid adverse impacts on water quality, recharge capabilities, or both.

(F) Consideration of specific techniques, which may include clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section.

(G) Consideration of the establishment of a State institution to facilitate and assist funding a development transfer credit system.

(H) A program for State and local implementation of the plan described in this subsection in a manner that will insure the continued, uniform, consistent protection of the critical

protection area in accord with the purposes of this section.

(I) Pollution abatement measures, if appropriate.

(g) Plans under section 208 of Clean Water Act

A plan approved before June 19, 1986, under section 208 of the Clean Water Act [33 U.S.C. 1288] to protect a sole source aquifer designated under section 300h–3(e) of this title shall be considered a comprehensive management plan for the purposes of this section.

(h) Consultation and hearings

During the development of a comprehensive management plan under this section, the planning entity shall consult with, and consider the comments of, appropriate officials of any municipality and State or Federal agency which has jurisdiction over lands and waters within the special protection area, other concerned organizations and technical and citizen advisory committees. The planning entity shall conduct public hearings at places within the special protection area for the purpose of providing the opportunity to comment on any aspect of the plan.

(i) Approval or disapproval

Within 120 days after receipt of an application under this section, the Administrator shall approve or disapprove the application. The approval or disapproval shall be based on a determination that the critical protection area satisfies the criteria established under subsection (d) and that a demonstration program for the area would provide protection for ground water quality consistent with the objectives stated in subsection (f). The Administrator shall provide to the Governor a written explanation of the reasons for the disapproval of any such application. Any petitioner may modify and resubmit any application which is not approved. Upon approval of an application, the Administrator may enter into a cooperative agreement with the applicant to establish a demonstration program under this section.

(j) Grants and reimbursement

Upon entering a cooperative agreement under subsection (i), the Administrator may provide to the applicant, on a matching basis, a grant of 50 per centum of the costs of implementing the plan established under this section. The Administrator may also reimburse the applicant of an approved plan up to 50 per centum of the costs of developing such plan, except for plans approved under section 208 of the Clean Water Act [33 U.S.C. 1288]. The total amount of grants under this section for any one aquifer, designated under section 300h–3(e) of this title, shall not exceed $4,000,000 in any one fiscal year.

(k) Activities funded under other law

No funds authorized under this section may be used to fund activities funded under other sections of this chapter or the Clean Water Act [33 U.S.C. 1251 et seq.], the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9601 et seq.] or other environmental laws.

***(l)* Savings provision**

Nothing under this section shall be construed to amend, supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws; or any requirement imposed or right provided under any Federal or State environmental or public health statute.

(m) Authorization of appropriations

There are authorized to be appropriated to carry out this section not more than the following amounts:

Fiscal year:	*Amount*
1987	$10,000,000
1988	15,000,000
1989	17,500,000
1990	17,500,000
1991	17,500,000
1992–2003	15,000,000.

Matching grants under this section may also be used to implement or update any water quality management plan for a sole or principal source aquifer approved (before June 19, 1986) by the Administrator under section 208 of the Federal Water Pollution Control Act [33 U.S.C. 1288].

(July 1, 1944, ch. 373, title XIV, § 1427, as added and amended Pub. L. 99–339, title II, § 203, title III, § 301(f), June 19, 1986, 100 Stat. 657, 664; Pub. L. 104–66, title II, § 2021(g), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, § 120(a), title V, § 501(b)(2), (f)(3), Aug. 6, 1996, 110 Stat. 1650, 1691.)

Editorial Notes

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (k), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (k), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (k), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, which is classified principally to chapter 103 (§ 9601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(3), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b)(1). Pub. L. 104–182, § 120(a)(1), struck out ''not later than 24 months after June 19, 1986,'' after ''by the Administrator''.

Subsec. (k). Pub. L. 104–182, § 501(b)(2), substituted ''this section'' for ''this subsection''.

Subsec. (m). Pub. L. 104–182, § 120(a)(2), inserted table item relating to fiscal years 1992 through 2003.

1995—Subsecs. (*l*) to (n). Pub. L. 104–66 redesignated subsecs. (m) and (n) as (*l*) and (m), respectively, and struck out heading and text of former subsec. (*l*). Text read as follows: ''Not later than December 31, 1989, each State shall submit to the Administrator a report assessing the impact of the program on ground water quality and identifying those measures found to be effective in protecting ground water resources. No later

than September 30, 1990, the Administrator shall submit to Congress a report summarizing the State reports, and assessing the accomplishments of the sole source aquifer demonstration program including an identification of protection methods found to be most effective and recommendations for their application to protect ground water resources from contamination whenever necessary.''

1986—Subsec. (n). Pub. L. 99–339 added subsec. (n).

§ 300h–7. State programs to establish wellhead protection areas

(a) State programs

The Governor or Governor's designee of each State shall, within 3 years of June 19, 1986, adopt and submit to the Administrator a State program to protect wellhead areas within their jurisdiction from contaminants which may have any adverse effect on the health of persons. Each State program under this section shall, at a minimum—

(1) specify the duties of State agencies, local governmental entities, and public water supply systems with respect to the development and implementation of programs required by this section;

(2) for each wellhead, determine the wellhead protection area as defined in subsection (e) based on all reasonably available hydrogeologic information on ground water flow, recharge and discharge and other information the State deems necessary to adequately determine the wellhead protection area;

(3) identify within each wellhead protection area all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

(4) describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training, and demonstration projects to protect the water supply within wellhead protection areas from such contaminants;

(5) include contingency plans for the location and provision of alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants; and

(6) include a requirement that consideration be given to all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system.

(b) Public participation

To the maximum extent possible, each State shall establish procedures, including but not limited to the establishment of technical and citizens' advisory committees, to encourage the public to participate in developing the protection program for wellhead areas and source water assessment programs under section 300j–13 of this title. Such procedures shall include notice and opportunity for public hearing on the State program before it is submitted to the Administrator.

(c) Disapproval

(1) In general

If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under section 300j–13 of this title or section 300g–7(b) of this title does not meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title, the Administrator shall disapprove such program or portion thereof. A State program developed pursuant to subsection (a) shall be deemed to be adequate unless the Administrator determines, within 9 months of the receipt of a State program, that such program (or portion thereof) is inadequate for the purpose of protecting public water systems as required by this section from contaminants that may have any adverse effect on the health of persons. A State program developed pursuant to section 300j–13 of this title or section 300g–7(b) of this title shall be deemed to meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements. If the Administrator determines that a proposed State program (or any portion thereof) is disapproved, the Administrator shall submit a written statement of the reasons for such determination to the Governor of the State.

(2) Modification and resubmission

Within 6 months after receipt of the Administrator's written notice under paragraph (1) that any proposed State program (or portion thereof) is disapproved, the Governor or Governor's designee, shall modify the program based upon the recommendations of the Administrator and resubmit the modified program to the Administrator.

(d) Federal assistance

After the date 3 years after June 19, 1986, no State shall receive funds authorized to be appropriated under this section except for the purpose of implementing the program and requirements of paragraphs (4) and (6) of subsection (a).

(e) "Wellhead protection area" defined

As used in this section, the term ''wellhead protection area'' means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. The extent of a wellhead protection area, within a State, necessary to provide protection from contaminants which may have any adverse effect on the health of persons is to be determined by the State in the program submitted under subsection (a). Not later than one year after June 19, 1986, the Administrator shall issue technical guidance which States may use in making such determinations. Such guidance may reflect such factors as the radius of influence around a well or wellfield, the depth of drawdown of the water table by such well or wellfield at any given point, the time or rate of travel of various contaminants in various hydrologic conditions, distance from the well or wellfield, or other factors affecting the likelihood of contaminants reaching the well or

wellfield, taking into account available engineering pump tests or comparable data, field reconnaissance, topographic information, and the geology of the formation in which the well or wellfield is located.

(f) Prohibitions

(1) Activities under other laws

No funds authorized to be appropriated under this section may be used to support activities authorized by the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.], the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9601 et seq.], or other sections of this chapter.

(2) Individual sources

No funds authorized to be appropriated under this section may be used to bring individual sources of contamination into compliance.

(g) Implementation

Each State shall make every reasonable effort to implement the State wellhead area protection program under this section within 2 years of submitting the program to the Administrator. Each State shall submit to the Administrator a biennial status report describing the State's progress in implementing the program. Such report shall include amendments to the State program for water wells sited during the biennial period.

(h) Federal agencies

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any potential source of contaminants identified by a State program pursuant to the provisions of subsection (a)(3) shall be subject to and comply with all requirements of the State program developed according to subsection (a)(4) applicable to such potential source of contaminants, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable charges and fees. The President may exempt any potential source under the jurisdiction of any department, agency, or instrumentality in the executive branch if the President determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to the lack of an appropriation unless the President shall have specifically requested such appropriation as part of the budgetary process and the Congress shall have failed to make available such requested appropriations.

(i) Additional requirement

(1) In general

In addition to the provisions of subsection (a) of this section, States in which there are more than 2,500 active wells at which annular injection is used as of January 1, 1986, shall include in their State program a certification that a State program exists and is being adequately enforced that provides protection from contaminants which may have any adverse effect on the health of persons and which are associated with the annular injection or surface disposal of brines associated with oil and gas production.

(2) "Annular injection" defined

For purposes of this subsection, the term ''annular injection'' means the reinjection of brines associated with the production of oil or gas between the production and surface casings of a conventional oil or gas producing well.

(3) Review

The Administrator shall conduct a review of each program certified under this subsection.

(4) Disapproval

If a State fails to include the certification required by this subsection or if in the judgment of the Administrator the State program certified under this subsection is not being adequately enforced, the Administrator shall disapprove the State program submitted under subsection (a) of this section.

(j) Coordination with other laws

Nothing in this section shall authorize or require any department, agency, or other instrumentality of the Federal Government or State or local government to apportion, allocate or otherwise regulate the withdrawal or beneficial use of ground or surface waters, so as to abrogate or modify any existing rights to water established pursuant to State or Federal law, including interstate compacts.

(k) Authorization of appropriations

Unless the State program is disapproved under this section, the Administrator shall make grants to the State for not less than 50 or more than 90 percent of the costs incurred by a State (as determined by the Administrator) in developing and implementing each State program under this section. For purposes of making such grants there is authorized to be appropriated not more than the following amounts:

Fiscal year:	*Amount*
1987	$20,000,000
1988	20,000,000
1989	35,000,000
1990	35,000,000
1991	35,000,000
1992–2003	30,000,000.

(July 1, 1944, ch. 373, title XIV, § 1428, as added and amended Pub. L. 99–339, title II, § 205, title III, § 301(e), June 19, 1986, 100 Stat. 660, 664; Pub. L. 104–182, title I, §§ 120(b), 132(b), title V, § 501(f)(4), Aug. 6, 1996, 110 Stat. 1650, 1674, 1692.)

Editorial Notes

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (f)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Solid Waste Disposal Act, referred to in subsec. (f)(1), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat.

997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in subsec. (f)(1), is Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–182, § 501(f)(4), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b). Pub. L. 104–182, § 132(b)(4), inserted before period at end of first sentence ''and source water assessment programs under section 300j–13 of this title''.

Subsec. (c)(1). Pub. L. 104–182, § 132(b)(3), which directed substitution of ''is disapproved'' for ''is inadequate'' in third sentence, was executed by making the substitution in fourth sentence to reflect the probable intent of Congress and the amendment by Pub. L. 104–182, § 132(b)(2). See below.

Pub. L. 104–182, § 132(b)(2), inserted after second sentence ''A State program developed pursuant to section 300j–13 of this title or section 300g–7(b) of this title shall be deemed to meet the applicable requirements of section 300j–13 of this title or section 300g–7(b) of this title unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.''

Pub. L. 104–182, § 132(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''If, in the judgment of the Administrator, a State program (or portion thereof, including the definition of a wellhead protection area), is not adequate to protect public water systems as required by this section, the Administrator shall disapprove such program (or portion thereof).''

Subsec. (c)(2). Pub. L. 104–182, § 132(b)(3), substituted ''is disapproved'' for ''is inadequate''.

Subsec. (k). Pub. L. 104–182, § 120(b), inserted table item relating to fiscal years 1992 through 2003.

1986—Subsec. (k). Pub. L. 99–339, § 301(e), added subsec. (k).

§ 300h–8. State ground water protection grants

(a) In general

The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

(b) Guidance

Not later than 1 year after August 6, 1996, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

(c) Conditions of grants

(1) In general

The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

(2) Innovative program grants

The Administrator may also award a grant pursuant to this subsection for innovative programs proposed by a State for the prevention of ground water contamination.

(3) Allocation of funds

The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this section are allocated to each State that submits an application that is approved by the Administrator pursuant to this section.

(4) Limitation on grants

No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

(d) Amount of grants

The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

(e) Evaluations and reports

Not later than 3 years after August 6, 1996, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this section and report to the Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1997 through 2003.

(July 1, 1944, ch. 373, title XIV, § 1429, as added Pub. L. 104–182, title I, § 131, Aug. 6, 1996, 110 Stat. 1672.)

§ 300h–9. Secure geologic storage permitting

(a) Definitions

In this section:

(1) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) Class VI well

The term ''Class VI well'' means a well described in section 144.6(f) of title 40, Code of Federal Regulations (or successor regulations).

(b) Authorization of appropriations for geologic sequestration permitting

There is authorized to be appropriated to the Administrator for the permitting of Class VI

wells by the Administrator for the injection of carbon dioxide for the purpose of geologic sequestration in accordance with the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the final rule of the Administrator entitled ''Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO2) Geologic Sequestration (GS) Wells'' (75 Fed. Reg. 77230 (December 10, 2010)), $5,000,000 for each of fiscal years 2022 through 2026.

(c) State permitting program grants

(1) Establishment

The Administrator shall award grants to States that, pursuant to section 1422 of the Safe Drinking Water Act (42 U.S.C. 300h–1), receive the approval of the Administrator for a State underground injection control program for permitting Class VI wells for the injection of carbon dioxide.

(2) Use of funds

A State that receives a grant under paragraph (1) shall use the amounts received under the grant to defray the expenses of the State related to the establishment and operation of a State underground injection control program described in paragraph (1).

(3) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title III, § 40306, Nov. 15, 2021, 135 Stat. 1002.)

Editorial Notes

REFERENCES IN TEXT

The Safe Drinking Water Act, referred to in subsec. (b), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1660, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Infrastructure Investment and Jobs Act, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

PART D—EMERGENCY POWERS

§ 300i. Emergency powers

(a) Actions authorized against imminent and substantial endangerment to health

Notwithstanding any other provision of this subchapter the Administrator, upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water, or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which may present an imminent and substantial endangerment to the health of persons, and that appropriate State and 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. To the extent he determines it to be practicable in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taking. The action which the Administrator may take 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), including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment, and (2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

(b) Penalties for violations; separate offenses

Any person who violates or fails or refuses to comply with any order issued by the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be subject to a civil penalty of not to exceed $15,000 for each day in which such violation occurs or failure to comply continues.

(July 1, 1944, ch. 373, title XIV, § 1431, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 99–339, title II, § 204, June 19, 1986, 100 Stat. 660; Pub. L. 104–182, title I, § 113(d), Aug. 6, 1996, 110 Stat. 1636; Pub. L. 107–188, title IV, § 403(2), June 12, 2002, 116 Stat. 687.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–188, in first sentence, inserted '', or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which'' after ''drinking water''.

1996—Subsec. (b). Pub. L. 104–182 substituted ''$15,000'' for ''$5,000''.

1986—Subsec. (a). Pub. L. 99–339, § 204(1), (2), inserted ''or an underground source of drinking water'' after ''to enter a public water system'' and ''including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment,'' after ''including travelers),''.

Subsec. (b). Pub. L. 99–339, § 204(3), struck out ''willfully'' after ''person who'' and substituted ''subject to a civil penalty of not to exceed'' for ''fined not more than''.

§ 300i–1. Tampering with public water systems

(a) Tampering

Any person who tampers with a public water system shall be imprisoned for not more than 20

years, or fined in accordance with title 18, or both.

(b) Attempt or threat

Any person who attempts to tamper, or makes a threat to tamper, with a public drinking water system be imprisoned for not more than 10 years, or fined in accordance with title 18, or both.

(c) Civil penalty

The Administrator may bring a civil action in the appropriate United States district court (as determined under the provisions of title 28) against any person who tampers, attempts to tamper, or makes a threat to tamper with a public water system. The court may impose on such person a civil penalty of not more than $1,000,000 for such tampering or not more than $100,000 for such attempt or threat.

(d) "Tamper" defined

For purposes of this section, the term ''tamper'' means—

(1) to introduce a contaminant into a public water system with the intention of harming persons; or

(2) to otherwise interfere with the operation of a public water system with the intention of harming persons.

(July 1, 1944, ch. 373, title XIV, § 1432, as added Pub. L. 99–339, title I, § 108, June 19, 1986, 100 Stat. 651; amended Pub. L. 104–182, title V, § 501(f)(5), Aug. 6, 1996, 110 Stat. 1692; Pub. L. 107–188, title IV, § 403(3), June 12, 2002, 116 Stat. 687.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–188, § 403(3)(A), substituted ''20 years'' for ''5 years''.

Subsec. (b). Pub. L. 107–188, § 403(3)(B), substituted ''10 years'' for ''3 years''.

Subsec. (c). Pub. L. 107–188, § 403(3)(C), (D), substituted ''$1,000,000'' for ''$50,000'' and ''$100,000'' for ''$20,000''.

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

§ 300i–2. Community water system risk and resilience

(a) Risk and resilience assessments

(1) In general

Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the risks to, and resilience of, its system. Such an assessment—

(A) shall include an assessment of—

(i) the risk to the system from malevolent acts and natural hazards;

(ii) the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;

(iii) the monitoring practices of the system;

(iv) the financial infrastructure of the system;

(v) the use, storage, or handling of various chemicals by the system; and

(vi) the operation and maintenance of the system; and

(B) may include an evaluation of capital and operational needs for risk and resilience management for the system.

(2) Baseline information

The Administrator, not later than August 1, 2019, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information on malevolent acts of relevance to community water systems, which shall include consideration of acts that may—

(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

(B) otherwise present significant public health or economic concerns to the community served by the system.

(3) Certification

(A) Certification

Each community water system described in paragraph (1) shall submit to the Administrator a certification that the system has conducted an assessment complying with paragraph (1). Such certification shall be made prior to—

(i) March 31, 2020, in the case of systems serving a population of 100,000 or more;

(ii) December 31, 2020, in the case of systems serving a population of 50,000 or more but less than 100,000; and

(iii) June 30, 2021, in the case of systems serving a population greater than 3,300 but less than 50,000.

(B) Review and revision

Each community water system described in paragraph (1) shall review the assessment of such system conducted under such paragraph at least once every 5 years after the applicable deadline for submission of its certification under subparagraph (A) to determine whether such assessment should be revised. Upon completion of such a review, the community water system shall submit to the Administrator a certification that the system has reviewed its assessment and, if applicable, revised such assessment.

(4) Contents of certifications

A certification required under paragraph (3) shall contain only—

(A) information that identifies the community water system submitting the certification;

(B) the date of the certification; and

(C) a statement that the community water system has conducted, reviewed, or revised the assessment, as applicable.

(5) Provision to other entities

No community water system shall be required under State or local law to provide an assessment described in this section (or revision thereof) to any State, regional, or local governmental entity solely by reason of the

requirement set forth in paragraph (3) that the system submit a certification to the Administrator.

(b) Emergency response plan

Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates findings of the assessment conducted under subsection (a) for such system (and any revisions thereto). Each community water system shall certify to the Administrator, as soon as reasonably possible after October 23, 2018, but not later than 6 months after completion of the assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include—

(1) strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system;

(2) plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the community water system to deliver safe drinking water;

(3) actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health and the safety and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers; and

(4) strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

(c) Coordination

Community water systems shall, to the extent possible, coordinate with existing local emergency planning committees established pursuant to the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) when preparing or revising an assessment or emergency response plan under this section.

(d) Record maintenance

Each community water system shall maintain a copy of the assessment conducted under subsection (a) and the emergency response plan prepared under subsection (b) (including any revised assessment or plan) for 5 years after the date on which a certification of such assessment or plan is submitted to the Administrator under this section.

(e) Guidance to small public water systems

The Administrator shall provide guidance and technical assistance to community water systems serving a population of less than 3,300 persons on how to conduct resilience assessments, prepare emergency response plans, and address threats from malevolent acts and natural hazards that threaten to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

(f) Alternative preparedness and operational resilience programs

(1) Satisfaction of requirement

A community water system that is required to comply with the requirements of subsections (a) and (b) may satisfy such requirements by—

(A) using and complying with technical standards that the Administrator has recognized under paragraph (2); and

(B) submitting to the Administrator a certification that the community water system is complying with subparagraph (A).

(2) Authority to recognize

Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995, the Administrator shall recognize technical standards that are developed or adopted by third-party organizations or voluntary consensus standards bodies that carry out the objectives or activities required by this section as a means of satisfying the requirements under subsection (a) or (b).

(g) Technical assistance and grants

(1) In general

The Administrator shall establish and implement a program, to be known as the Drinking Water Infrastructure Risk and Resilience Program, under which the Administrator may award grants in each of fiscal years 2020 and 2021 to owners or operators of community water systems for the purpose of increasing the resilience of such community water systems.

(2) Use of funds

As a condition on receipt of a grant under this section, an owner or operator of a community water system shall agree to use the grant funds exclusively to assist in the planning, design, construction, or implementation of a program or project consistent with an emergency response plan prepared pursuant to subsection (b), which may include—

(A) the purchase and installation of equipment for detection of drinking water contaminants or malevolent acts;

(B) the purchase and installation of fencing, gating, lighting, or security cameras;

(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

(D) the purchase and installation of improved treatment technologies and equipment to improve the resilience of the system;

(E) improvements to electronic, computer, financial, or other automated systems and remote systems;

(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security and resilience;

(G) improvements in the use, storage, or handling of chemicals by the community water system;

(H) security screening of employees or contractor support services;

(I) equipment necessary to support emergency power or water supply, including standby and mobile sources; and

(J) the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.

(3) Exclusions

A grant under this subsection may not be used for personnel costs, or for monitoring, operation, or maintenance of facilities, equipment, or systems.

(4) Technical assistance

For each fiscal year, the Administrator may use not more than $5,000,000 from the funds made available to carry out this subsection to provide technical assistance to community water systems to assist in responding to and alleviating a vulnerability that would substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent need.

(5) Grants for small systems

For each fiscal year, the Administrator may use not more than $10,000,000 from the funds made available to carry out this subsection to make grants to community water systems serving a population of less than 3,300 persons, or nonprofit organizations receiving assistance under section 300j–1(e) of this title, for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (e) of this section.

(6) Authorization of appropriations

To carry out this subsection, there are authorized to be appropriated $25,000,000 for each of fiscal years 2020 and 2021.

(h) Definitions

In this section—

(1) the term ''resilience'' means the ability of a community water system or an asset of a community water system to adapt to or withstand the effects of a malevolent act or natural hazard without interruption to the asset's or system's function, or if the function is interrupted, to rapidly return to a normal operating condition; and

(2) the term ''natural hazard'' means a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.

(July 1, 1944, ch. 373, title XIV, § 1433, as added Pub. L. 107–188, title IV, § 401, June 12, 2002, 116 Stat. 682; amended Pub. L. 115–270, title II, § 2013(a), Oct. 23, 2018, 132 Stat. 3850.)

Editorial Notes

REFERENCES IN TEXT

The Emergency Planning and Community Right-To-Know Act of 1986, referred to in subsec. (c), is Pub. L. 99–499, title III, Oct. 17, 1986, 100 Stat. 1728, which is classified generally to chapter 116 (§ 11001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11001 of this title and Tables.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, referred to in subsec. (f)(2), is section 12(d) of Pub. L. 104–113, which is set out as a note under section 272 of Title 15, Commerce and Trade.

AMENDMENTS

2018—Pub. L. 115–270 amended section generally. Prior to amendment, section related to terrorist and other intentional acts.

Statutory Notes and Related Subsidiaries

SENSITIVE INFORMATION

Pub. L. 115–270, title II, § 2013(b), Oct. 23, 2018, 132 Stat. 3854, provided that:

''(1) PROTECTION FROM DISCLOSURE.—Information submitted to the Administrator of the Environmental Protection Agency pursuant to section 1433 of the Safe Drinking Water Act [42 U.S.C. 300i–2], as in effect on the day before the date of enactment of America's Water Infrastructure Act of 2018 [Oct. 23, 2018], shall be protected from disclosure in accordance with the provisions of such section as in effect on such day.

''(2) DISPOSAL.—The Administrator, in partnership with community water systems (as defined in section 1401 of the Safe Drinking Water Act [42 U.S.C. 300f]), shall develop a strategy to, in a timeframe determined appropriate by the Administrator, securely and permanently dispose of, or return to the applicable community water system, any information described in paragraph (1).''

§ 300i–3. Contaminant prevention, detection and response

(a) In general

The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

(1) Methods, means and equipment, including real time monitoring systems, designed to monitor and detect various levels of chemical, biological, and radiological contaminants or indicators of contaminants and reduce the likelihood that such contaminants can be successfully introduced into public water systems and source water intended to be used for drinking water.

(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

(3) Methods and means for developing educational and awareness programs for community water systems.

(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

(5) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into

water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

(6) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist or other intentional acts.

(b) Funding

For the authorization of appropriations to carry out this section, see section 300i–4(e) of this title.

(July 1, 1944, ch. 373, title XIV, § 1434, as added Pub. L. 107–188, title IV, § 402, June 12, 2002, 116 Stat. 685.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

§ 300i–4. Supply disruption prevention, detection and response

(a) Disruption of supply or safety

The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

(5) Methods and means by which information systems, including process controls and supervisory control and data acquisition and cyber systems at community water systems could be disrupted by terrorists or other groups.

(b) Alternative sources

The review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

(c) Requirements and considerations

In carrying out this section and section 300i–3 of this title—

(1) the Administrator shall ensure that reviews carried out under this section reflect the needs of community water systems of various sizes and various geographic areas of the United States; and

(2) the Administrator may consider the vulnerability of, or potential for forced interruption of service for, a region or service area, including community water systems that provide service to the National Capital area.

(d) Information sharing

As soon as practicable after reviews carried out under this section or section 300i–3 of this title have been evaluated, the Administrator shall disseminate, as appropriate as determined by the Administrator, to community water systems information on the results of the project through the Information Sharing and Analysis Center, or other appropriate means.

(e) Funding

There are authorized to be appropriated to carry out this section and section 300i–3 of this title not more than $15,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

(July 1, 1944, ch. 373, title XIV, § 1435, as added Pub. L. 107–188, title IV, § 402, June 12, 2002, 116 Stat. 686.)

PART E—GENERAL PROVISIONS

§ 300j. Assurances of availability of adequate supplies of chemicals necessary for treatment of water

(a) Certification of need application

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) Application requirements; publication in Federal Register; waiver; certification, issuance or denial

(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) Certification of need; issuance; executive orders; implementation of orders; equitable apportionment of orders; factors considered

(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 manufactures, 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) Breach of contracts; defense

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 or 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) Penalties for noncompliance with orders; temporary restraining orders and preliminary or permanent injunctions

(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 preliminary or permanent injunction (including a mandatory injunction) to enforce the provision of such order.

(f) Termination date

No certification of need or order issued under this section may remain in effect for more than one year.

(July 1, 1944, ch. 373, title XIV, § 1441, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 95–190, § 7, Nov. 16, 1977, 91 Stat. 1396; Pub. L. 96–63, § 3, Sept. 6, 1979, 93 Stat. 411; Pub. L. 99–339, title III, § 301(d), June 19, 1986, 100 Stat. 664; Pub. L. 104–182, title V, § 501(c), Aug. 6, 1996, 110 Stat. 1691.)

Editorial Notes

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–182 inserted a period after ''year''.

1986—Subsec. (f). Pub. L. 99–339 substituted ''in effect for more than one year'' for ''in effect— (1) for more than one year, or (2) September 30, 1982, whichever occurs first.''

1979—Subsec. (f)(2). Pub. L. 96–63 substituted ''September 30, 1982'' for ''September 30, 1979''.

1977—Subsec. (f). Pub. L. 95–190 substituted ''September 30, 1979'' for ''June 30, 1977''.

Executive Documents

EX. ORD. NO. 11879. DELEGATION OF FUNCTIONS TO SECRETARY OF COMMERCE RELATING TO ORDERS FOR PROVISION OF CHEMICALS OR SUBSTANCES NECESSARY FOR TREATMENT OF WATER

Ex. Ord. No. 11879, Sept. 17, 1975, 40 F.R. 43197, provided:

By virtue of the authority vested in me by Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (88 Stat. 1680, 42 U.S.C. 300j), and as President of the United States, the Secretary of Commerce is hereby delegated, with power to redelegate to agencies, officers and employees of the Government, the functions of the President contained in said section 1441 [42 U.S.C. 300j]. Those functions shall be administered under regulations or agreements which are identical or compatible with other regulations and agreements, including those provided pursuant to Executive Order No. 10480, as amended [former 50 U.S.C. App. 2153 note], for the allocation of similar chemicals or substances.

GERALD R. FORD.

§ 300j–1. Research, technical assistance, information, training of personnel

(a) Specific powers and duties of Administrator

(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;

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

(F) innovative water technologies (including technologies to improve water treatment to ensure compliance with this subchapter and technologies to identify and mitigate sources of drinking water contamination, including lead contamination).

(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this subchapter, the Administrator is authorized to—

(A) 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 with the information; and

(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this subchapter.

(3) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

(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 December 16, 1974, 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.

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after December 16, 1974, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(11) COMPLIANCE EVALUATION.—

(A) IN GENERAL.—Not later than 1 year after November 15, 2021, the Administrator shall—

(i) evaluate, based on the compliance data found in the Safe Drinking Water Information System of the Administrator, the compliance of community water systems and wastewater systems with environmental, health, and safety requirements under this subchapter, including water quality sampling, testing, and reporting requirements; and

(ii) submit to Congress a report describing trends seen as a result of the evaluation under clause (i), including trends that demonstrate how the characteristics of community water systems and wastewater systems correlate to trends in compliance or noncompliance with the requirements described in that clause.

(B) REQUIREMENT.—To the extent practicable, in carrying out subparagraph (A), the Administrator shall determine whether, in aggregate, community water systems and wastewater systems maintain asset management plans.

(b) Emergency situations

The Administrator is authorized to provide technical assistance and to make grants to States, or publicly owned water systems to assist in responding to and alleviating any emergency situation (including an emergency situation resulting from a cybersecurity event) affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health, including a threat to public health resulting from contaminants, such as, but not limited to, heightened exposure to lead in drinking water. Grants provided under this subsection shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subsection as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subsection.

(c) Establishment of training programs and grants for training; training fees

The Administrator shall—

(1) provide training for, and make grants for training (including postgraduate training) of (A) personnel of State agencies which have primary enforcement responsibility and of agencies or units of local government to which enforcement responsibilities have been delegated by the State, and (B) personnel who manage or operate public water systems, and

(2) make grants for postgraduate training of individuals (including grants to educational institutions for traineeships) for purposes of qualifying such individuals to work as personnel referred to in paragraph (1).

(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 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 subchapter (other than by carrying out State programs of public water system supervision or underground water source protection (as defined in section 300j–2(c) of this title)).

Reasonable fees may be charged for training provided under paragraph (1)(B) to persons other than personnel of State or local agencies but such training shall be provided to personnel of State or local agencies without charge.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out subsection (b) $35,000,000 for each of fiscal years 2022 through 2026.

(e) Technical assistance to small public water systems

(1) The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations.

(2) Such assistance may include circuit-rider and multi-State regional technical assistance

programs, training, and preliminary engineering evaluations.

(3) The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State.

(4) Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $15,000,000 for each of fiscal years 2022 through 2026.

(6) No portion of any State loan fund established under section 300j–12 of this title (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses.

(7) Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes, including grants to provide training and operator certification services under section 300j–12(i)(5) of this title.

(8) NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—The Administrator may use amounts made available to carry out this section to provide grants or cooperative agreements to nonprofit organizations that provide to small public water systems onsite technical assistance, circuit-rider technical assistance programs, multistate, regional technical assistance programs, onsite and regional training, assistance with implementing source water protection plans, and assistance with implementing monitoring plans, rules, regulations, and water security enhancements.

(B) PREFERENCE.—To ensure that technical assistance funding is used in a manner that is most beneficial to the small and rural communities of a State, the Administrator shall give preference under this paragraph to nonprofit organizations that, as determined by the Administrator, are the most qualified and experienced in providing training and technical assistance to small public water systems and that the small community water systems in that State find to be the most beneficial and effective.

(C) LIMITATION.—No grant or cooperative agreement provided or otherwise made available under this section may be used for litigation pursuant to section 300j–8 of this title.

(f) State-based nonprofit organizations

(1) In general

The Administrator may provide technical assistance consistent with the authority provided under subsection (e) to State-based nonprofit organizations that are governed by community water systems.

(2) Communication

Each State-based nonprofit organization that receives funding under paragraph (1) shall, before using that funding to undertake activities to carry out this subsection, consult with the State in which the assistance is to be expended or otherwise made available.

(g) Technical assistance for innovative water technologies

(1) The Administrator may provide technical assistance to public water systems to facilitate use of innovative water technologies.

(2) There are authorized to be appropriated to the Administrator for use in providing technical assistance under paragraph (1) $10,000,000 for each of fiscal years 2017 through 2021.

(July 1, 1944, ch. 373, title XIV, § 1442, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1682; amended Pub. L. 95–190, §§ 2(a), 3(a), (b), (e)(1), 4, 9, 10(b), 13, Nov. 16, 1977, 91 Stat. 1393–1395, 1397–1399; Pub. L. 96–63, § 1, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96–502, § 5, Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title I, § 107, title III, §§ 301(a), (g), 304(a), June 19, 1986, 100 Stat. 651, 663, 665, 667; Pub. L. 104–66, title II, § 2021(h), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, §§ 121, 122, Aug. 6, 1996, 110 Stat. 1651; Pub. L. 107–188, title IV, § 403(4), June 12, 2002, 116 Stat. 687; Pub. L. 114–98, § 4, Dec. 11, 2015, 129 Stat. 2200; Pub. L. 114–322, title II, §§ 2109(a), (b), 2112(a), Dec. 16, 2016, 130 Stat. 1729; Pub. L. 117–58, div. E, title I, § 50101, Nov. 15, 2021, 135 Stat. 1135.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(11). Pub. L. 117–58, § 50101(1), added par. (11).

Subsec. (b). Pub. L. 117–58, § 50101(2), inserted ''(including an emergency situation resulting from a cybersecurity event)'' after ''any emergency situation'' and '', including a threat to public health resulting from contaminants, such as, but not limited to, heightened exposure to lead in drinking water'' after ''substantial danger to the public health''.

Subsec. (d). Pub. L. 117–58, § 50101(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out subsection (b) not more than $35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.''

Subsec. (e)(5). Pub. L. 117–58, § 50101(4), added par. (5) and struck out former par. (5) which read as follows: ''There are authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for each of the fiscal years 2015 through 2020.''

Subsecs. (f), (g). Pub. L. 117–58, § 50101(5), (6), added subsec. (f) and redesignated former subsec. (f) as (g).

2016—Subsec. (a)(1)(F). Pub. L. 114–322, § 2109(a), added subpar. (F).

Subsec. (e). Pub. L. 114–322, § 2109(b)(1), inserted ''to small public water systems'' after ''assistance'' in heading.

Subsec. (e)(7). Pub. L. 114–322, § 2112(a), substituted ''Tribes, including grants to provide training and operator certification services under section 300j–12(i)(5) of this title'' for ''Tribes''.

Subsec. (f). Pub. L. 114–322, § 2109(b)(2), added subsec. (f).

2015—Subsec. (e). Pub. L. 114–98, § 4(1), designated first to seventh sentences of existing provisions as pars. (1) to (7), respectively.

Subsec. (e)(5). Pub. L. 114–98, § 4(2), substituted ''2015 through 2020'' for ''1997 through 2003''.

Subsec. (e)(8). Pub. L. 114–98, § 4(3), added par. (8).

2002—Subsec. (b). Pub. L. 107–188, § 403(4)(A), which directed substitution of ''this subsection'' for ''this subparagraph'', was executed by making the substitution in three places to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 107–188, § 403(4)(B), amended subsec. (d) generally, substituting provisions relating to

authorization of appropriations to carry out subsec. (b) in fiscal year 2002 and subsequent fiscal years for provisions relating to authorization of appropriations to carry out this section in fiscal year 1991 and earlier.

1996—Subsec. (a)(2). Pub. L. 104–182, § 121(4)(A), added heading and text of par. (2) and struck out former par. (2) which read as follows: ''(2)(A) 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 300j–2(c)(1) of this title).''

Subsec. (a)(2)(B). Pub. L. 104–182, § 121(3), redesignated subpar. (B) as subsec. (b) and transferred that subsec. to appear after subsec. (a).

Subsec. (a)(3), (11). Pub. L. 104–182, § 121(4)(B), (C), redesignated par. (11) as (3), transferred that par. to appear before par. (4), and struck out former par. (3) which provided that the Administrator was to conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g–1 of this title.

Subsec. (b). Pub. L. 104–182, § 121(2), (3), redesignated subsec. (a)(2)(B) as subsec. (b), transferred that subsec. to appear after subsec. (a), and struck out former subsec. (b) which read as follows: ''In carrying out this subchapter, 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 subchapter;''.

Subsecs. (b)(3), (c)(3). Pub. L. 104–182, § 121(1), which directed redesignation of subsec. (b)(3) as par. (3) of subsec. (d) and transfer of that par. to follow par. (2) of subsec. (d), was executed by redesignating subsec. (b)(3) as par. (3) of subsec. (c) and transferring that par. to follow par. (2) of subsec. (c) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (c) by Pub. L. 104–66. See 1995 Amendment note below. Moreover, subsec. (d) does not have any pars.

Subsec. (e). Pub. L. 104–182, § 122, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include 'circuit-rider' programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection $10,000,000 for each of the fiscal years 1987 through 1991. Not less than the greater of—

''(1) 3 percent of the amounts appropriated under this subsection, or

''(2) $280,000

shall be utilized for technical assistance to public water systems owned or operated by Indian tribes.''

1995—Subsecs. (c) to (g). Pub. L. 104–66 redesignated subsecs. (d), (f), and (g) as (c), (d), and (e), respectively, and struck out former subsec. (c) which read as follows: ''Not later than eighteen months after November 16, 1977, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data complied by the National Water Commission and others shall be utilized to the extent possible.''

1986—Subsec. (e). Pub. L. 99–339, § 304(a), struck out subsec. (e) which authorized the Administrator to make grants to public water systems which are required, under State or local law, to meet standards relating to drinking turbidity which are more stringent than the standards in effect under this subchapter.

Subsec. (f). Pub. L. 99–339, § 301(a), authorized appropriations to carry out subsec. (a)(2)(B) of this section for fiscal years 1987 to 1991 and to carry out provisions of this section other than subsecs. (a)(2)(B) and (g) and provisions relating to research for fiscal years 1987 to 1991.

Subsec. (g). Pub. L. 99–339, § 301(g), authorized appropriations to carry out this subsection of $10,000,000 for each of fiscal years 1987 through 1991 and specified amount to be utilized for public water systems owned or operated by Indian tribes.

Pub. L. 99–339, § 107 added subsec. (g).

1980—Subsecs. (e), (f). Pub. L. 96–502 added subsec. (e) and redesignated former subsec. (e) as (f).

1979—Subsec. (e). Pub. L. 96–63 authorized appropriations of $21,405,000 for fiscal year ending Sept. 30, 1980, $30,000,000 for fiscal year ending Sept. 30, 1981, and $35,000,000 for fiscal year ending Sept. 30, 1982 for purposes other than those of subsec. (a)(2)(B) of this section and for purposes of subsec. (a)(2)(B) of this section, $8,000,000 for fiscal years 1980 through 1982.

1977—Subsec. (a)(2). Pub. L. 95–190, §§ 9, 13, designated existing provisions as subpar. (A), added subpar. (B) and, in subpar. (B) as added, substituted provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation affecting public water systems and criteria for such grants and assistance for provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation respecting drinking water and criteria for determination of such situations.

Subsec. (a)(3). Pub. L. 95–190, § 3(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10), (11). Pub. L. 95–190, § 3(e)(1), added pars. (10) and (11).

Subsec. (b)(3)(C). Pub. L. 95–190, § 10(b), substituted ''300j–2(c)'' for ''300j–2(d)''.

Subsecs. (c), (d). Pub. L. 95–190, §§ 3(b), 4, added subsecs. (c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 95–190, §§ 2(a), 3(b), redesignated former subsec. (c) as (e) and inserted provisions authorizing appropriations for fiscal years 1978 and 1979, and provisions relating to appropriations for subsec. (a)(2)(B) of this section and for research.

Statutory Notes and Related Subsidiaries

REPORT ON INNOVATIVE WATER TECHNOLOGIES

Pub. L. 114–322, title II, § 2109(c), Dec. 16, 2016, 130 Stat. 1729, provided that: ''Not later than 1 year after the date of enactment of the Water and Waste Act of 2016 [Dec. 16, 2016], and not less frequently than every 5 years thereafter, the Administrator [of the Environmental Protection Agency] shall report to Congress on—

''(1) the amount of funding used to provide technical assistance under section 1442(f) [now 1442(g)] of the Safe Drinking Water Act [42 U.S.C. 300j–1(g)] to deploy innovative water technologies;

''(2) the barriers impacting greater use of innovative water technologies; and

''(3) the cost-saving potential to cities and future infrastructure investments from innovative water technologies.''

FINDINGS

Pub. L. 114–98, § 2, Dec. 11, 2015, 129 Stat. 2199, provided that: ''Congress finds that—

''(1) the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) [see Short Title of 1996 Amendments note set out under section 201 of this title] authorized technical assistance for small and

rural communities to assist those communities in complying with regulations promulgated pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(2) technical assistance and compliance training—

''(A) ensures that Federal regulations do not overwhelm the resources of small and rural communities; and

''(B) provides small and rural communities lacking technical resources with the necessary skills to improve and protect water resources;

''(3) across the United States, more than 90 percent of the community water systems serve a population of less than 10,000 individuals;

''(4) small and rural communities have the greatest difficulty providing safe, affordable public drinking water and wastewater services due to limited economies of scale and lack of technical expertise; and

''(5) in addition to being the main source of compliance assistance, small and rural water technical assistance has been the main source of emergency response assistance in small and rural communities.''

SCIENTIFIC RESEARCH REVIEW

Pub. L. 104–182, title II, § 202, Aug. 6, 1996, 110 Stat. 1682, provided that:

''(a) IN GENERAL.—The Administrator shall—

''(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the 'Agency');

''(2) integrate that strategic plan into ongoing Agency planning activities; and

''(3) review all Agency drinking water research to ensure the research—

''(A) is of high quality; and

''(B) does not duplicate any other research being conducted by the Agency.

''(b) PLAN.—The Administrator shall transmit the plan to the Committees on Commerce [now Energy and Commerce] and Science [now Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate and the plan shall be made available to the public.''

NATIONAL CENTER FOR GROUND WATER RESEARCH

Pub. L. 104–182, title II, § 203, Aug. 6, 1996, 110 Stat. 1683, provided that: ''The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration. No funds are authorized by this section.''

COMPARATIVE HEALTH EFFECTS ASSESSMENT

Pub. L. 99–339, title III, § 304(b), June 19, 1986, 100 Stat. 667, required the Administrator of the Environmental Protection Agency to conduct an assessment comparing the public health effects associated with water treatment chemicals and their byproducts to the public health effects associated with contaminants found in public water supplies and to submit a report to Congress on the assessment no later than 18 months after June 19, 1986.

§ 300j–1a. Innovative water technology grant program

(a) Definitions

In this section:

(1) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) Eligible entity

The term ''eligible entity'' means—

(A) a public water system (as defined under section 300f(4) of this title);

(B) an institution of higher education;

(C) a research institution or foundation;

(D) a regional water organization; or

(E) a nonprofit organization described in section 300j–1(e)(8) of this title.

(b) Grant program authorized

The Administrator shall carry out a grant program for the purpose of accelerating the development and deployment of innovative water technologies that address pressing drinking water supply, quality, treatment, or security challenges of public water systems, areas served by private wells, or source waters.

(c) Grants

In carrying out the program under subsection (b), the Administrator shall make grants to eligible entities—

(1) to develop, test, and deploy innovative water technologies; or

(2) to provide technical assistance to deploy demonstrated innovative water technologies.

(d) Selection criteria

In making grants under this section, the Administrator shall—

(1) award grants through a competitive process to eligible entities the Administrator determines are best able to carry out the purpose of the program; and

(2) give priority to projects that have the potential—

(A) to reduce ratepayer or community costs or costs of future capital investments;

(B) to significantly improve human health or the environment; or

(C) to provide additional drinking water supplies with minimal environmental impact.

(e) Cost-sharing

The Federal share of the cost of activities carried out using a grant under this section shall be not more than 65 percent.

(f) Limitation

The maximum amount of a grant under this section shall be $5,000,000.

(g) Report

Each year, the Administrator shall submit to Congress and make publicly available on the website of the Administrator a report that describes any advancements during the previous year in development of innovative water technologies made as a result of funding provided under this section.

(h) Partnerships

Grants awarded under this program may include projects that are carried out by an eligible entity in cooperation with a private entity, including a farmer, farmer cooperative, or manufacturer of water technologies.

(i) Authorization of appropriations

There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2019 and 2020.

(Pub. L. 115–270, title II, § 2007, Oct. 23, 2018, 132 Stat. 3845.)

Editorial Notes

CODIFICATION

Section was enacted as part of the America's Water Infrastructure Act of 2018, and not as part of the Public Health Service Act which comprises this chapter.

§ 300j–2. Grants for State programs

(a) Public water systems supervision programs; applications for grants; allotment of sums; waiver of grant restrictions; notice of approval or disapproval of application; authorization of appropriations

(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 and maintains primary enforcement responsibility for public water systems within the State. The prohibitions contained in the preceding two sentences shall not apply to such grants when made to Indian Tribes.

(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. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under this paragraph may not exceed 75 per centum of the allotment which the State would have received for such fiscal year if it had assumed and maintained such primary enforcement responsibility. The remaining 25 per centum of the amount allotted to such State for such fiscal year shall be retained by the Administrator, and the Administrator may award such amount to such State at such time as the State assumes such responsibility before the beginning of fiscal year 1980. At the beginning of each fiscal years 1979 and 1980 the amounts retained by the Administrator for any preceding fiscal year and not awarded by the beginning of fiscal year 1979 or 1980 to the States to which such amounts were originally allotted may be removed from the original allotment and reallotted for fiscal year 1979 or 1980 (as the case may be) to States which have assumed primary enforcement responsibility by the beginning of such fiscal year.

(6) The Administrator shall notify the State of the approval or disapproval of any application for a grant under this section—

(A) within ninety days after receipt of such application, or

(B) not later than the first day of the fiscal year for which the grant application is made,

whichever is later.

(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $125,000,000 for each of fiscal years 2020 and 2021.

(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

(9) STATE LOAN FUNDS.—

(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 300j–12 of this title (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of August 6, 1996.

(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 300g–2 of this title.

(b) Underground water source protection programs; applications for grants; allotment of sums; authorization of appropriations

(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. No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 300h of this title. The prohibition contained in the preceding sentence shall not apply to such grants when made to Indian Tribes.

(3) A grant under paragraph (1) shall be made to cover not more than 75 per centum of the grant recipient's cost (as determined under regulations of the Administrator) in carrying out, during the one-year period beginning on the date the grant is made, and 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 purposes of making grants under paragraph (1) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1976, $7,500,000 for the fiscal year ending June 30, 1977, $10,000,000 for each of the fiscal years 1978 and 1979, $7,795,000 for the fiscal year ending September 30, 1980, $18,000,000 for the fiscal year ending September 30, 1981, and $21,000,000 for the fiscal year ending September 30, 1982. For the purpose of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

Fiscal year:	*Amount*
1987	$19,700,000
1988	19,700,000
1989	20,850,000
1990	20,850,000
1991	20,850,000
1992–2003	15,000,000.

(c) Definitions

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 300g–4 and 300g–5 of this title) which are no less stringent than the national primary drinking water regulations under section 300g–1 of this title, and for keeping records and making reports required by section 300g–2(a)(3) of this title.

(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 300h of this title, and for keeping records and making reports required by section 300h–1(b)(1)(A)(ii) of this title. Such term includes, where applicable, a program which meets the requirements of section 300h–4 of this title.

(d) New York City watershed protection program

(1) In general

The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

(2) Report

Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

(3) Matching requirements

Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

(4) Authorization

There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 2003 through 2010, $15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).

(July 1, 1944, ch. 373, title XIV, § 1443, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1684; amended Pub. L. 95–190, §§ 2(b), (c), 5(a), Nov. 16, 1977, 91 Stat. 1393, 1395; Pub. L. 96–63, § 2, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96–502, §§ 2(c), 4(d), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title III, §§ 301(b), (c), 302(d), June 19, 1986, 100 Stat. 664, 666; Pub. L. 104–182, title I, §§ 120(c), 124, 128, Aug. 6, 1996, 110 Stat. 1651, 1653, 1659; Pub. L. 108–328, § 1, Oct. 16, 2004, 118 Stat. 1273; Pub. L. 115–270, title II, § 2014, Oct. 23, 2018, 132 Stat. 3854.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(7). Pub. L. 115–270 substituted ''$125,000,000 for each of fiscal years 2020 and 2021'' for ''$100,000,000 for each of fiscal years 1997 through 2003''.

2004—Subsec. (d)(4). Pub. L. 108–328 substituted ''2003 through 2010'' for ''1997 through 2003''.

1996—Subsec. (a)(7). Pub. L. 104–182, § 124(1), inserted heading and amended text generally. Prior to amendment, text read as follows: ''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, $25,000,000 for the fiscal year ending June 30, 1977, $35,000,000 for fiscal year 1978, $45,000,000 for fiscal year 1979, $29,450,000 for the fiscal year ending September 30, 1980, $32,000,000 for the fiscal year ending September 30, 1981, and $34,000,000 for the fiscal year ending September 30, 1982. For the purposes of making grants under paragraph (1) there are authorized to be appropriated not more than the following amounts:

''Fiscal year:	*Amount*
1987	$37,200,000
1988	37,200,000
1989	40,150,000
1990	40,150,000
1991	40,150,000''.

Subsec. (a)(8), (9). Pub. L. 104–182, § 124(2), added pars. (8) and (9).

Subsec. (b)(5). Pub. L. 104–182, § 120(c), inserted table item relating to fiscal years 1992 through 2003.

Subsec. (d). Pub. L. 104–182, § 128, added subsec. (d).

1986—Subsec. (a)(2). Pub. L. 99–339, § 302(d)(1), inserted provision that prohibitions contained in preceding two sentences not apply to such grants when made to Indian Tribes.

Subsec. (a)(7). Pub. L. 99–339, § 301(b), authorized appropriations for grants under par. (1) of not more than $37,200,000 for fiscal years 1987 and 1988 and of not more than $40,150,000 for fiscal years 1989 to 1991.

Subsec. (b)(2). Pub. L. 99–339, § 302(d)(2), inserted provision that prohibition contained in preceding sentence not apply to such grants when made to Indian Tribes.

Subsec. (b)(5). Pub. L. 99–339, § 301(c), authorized appropriations for grants under par. (1) of not more than $19,700,000 for fiscal years 1987 and 1988 and of not more than $20,850,000 for fiscal years 1989 to 1991.

1980—Subsec. (b)(2). Pub. L. 96–502, § 4(d), substituted provisions that no grant may be made to any State under par. (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 300h of this title for provisions that the Administrator may not approve an application of a State for its first grant under par. (1) unless he determines that the State has established or will establish within two years from the date of such grant an underground water source protection, and will, within such two years, assume primary enforcement responsibility for underground water sources within the State and that no grant may be made to a State under par. (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State.

Subsec. (c)(2). Pub. L. 96–502, § 2(c), inserted provision that such term includes, where applicable, a program which meets requirements of section 300h–4 of this title.

1979—Subsec. (a)(7). Pub. L. 96–63, § 2(a), authorized appropriation of $29,450,000, $32,000,000, and $34,000,000 for fiscal years ending Sept. 30, 1980, through 1982, respectively.

Subsec. (b)(5). Pub. L. 96–63, § 2(b), authorized appropriation of $7,795,000, $18,000,000, and $21,000,000 for fiscal years ending Sept. 30, 1980, through 1982, respectively.

1977—Subsec. (a)(5), (6). Pub. L. 95–190, § 5(a), added pars. (5) and (6). Former par. (5) redesignated (7).

Subsec. (a)(7). Pub. L. 95–190, §§ 2(b), 5(a), redesignated former par. (5) as (7) and authorized appropriations for fiscal years 1978 and 1979.

Subsec. (b)(5). Pub. L. 95–190, § 2(c), inserted provisions authorizing appropriations for fiscal years 1978 and 1979.

§ 300j–3. Special project grants and guaranteed loans

(a) Special study and demonstration project grants

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 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 (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) Limitations

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

(1) Grants under this section shall not exceed 66⅔ 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) Authorization of appropriations

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) Loan guarantees to public water systems; conditions; indebtedness limitation; regulations

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 prescribed under section 300g–1 of this title. No such guarantee may be made with respect to a system unless (1) such system cannot reasonably 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 $50,000. The aggregate amount of indebtedness guaranteed under this subsection may not exceed $50,000,000. The Administrator shall prescribe regulations to carry out this subsection.

(July 1, 1944, ch. 373, title XIV, § 1444, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1685; amended Pub. L. 99–339, title I, § 101(c)(3), June 19, 1986, 100 Stat. 646.)

Editorial Notes

AMENDMENTS

1986—Subsec. (d). Pub. L. 99–339 struck out ''(including interim regulations)'' before ''prescribed'' in first sentence.

§ 300j–3a. Grants to public sector agencies

(a) Assistance for development and demonstration projects

The Administrator of the Environmental Protection Agency shall offer grants to public sector agencies for the purposes of—

(1) assisting in the development and demonstration (including construction) 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 (including construction) of any project which will investigate and demonstrate health and conservation implications involved in the reclamation, recycling, and reuse of wastewaters for drinking and agricultural use or the processes and methods for the preparation of safe and acceptable drinking water.

(b) Limitations

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

(1) Grants under this section shall not exceed 66⅔ 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 consultation, 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.

(c) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section $25,000,000 for fiscal year 1978.

(Pub. L. 95–155, § 5, Nov. 8, 1977, 91 Stat. 1258; Pub. L. 95–477, § 7(a)(1), Oct. 18, 1978, 92 Stat. 1511.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1978, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–477 inserted ''agricultural use or'' after ''drinking and''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–477, § 7(a)(2), Oct. 18, 1978, 92 Stat. 1511, provided that: ''This subsection [amending this section] shall become effective October 1, 1978.''

§ 300j–3b. Contaminant standards or treatment technique guidelines

(1) Not later than nine months after October 18, 1978, the Administrator shall promulgate guidelines establishing supplemental standards or treatment technique requirements for microbiological, viral, radiological, organic, and inorganic contaminants, which guidelines shall be conditions, as provided in paragraph (2), of any grant for a demonstration project for water reclamation, recycling, and reuse funded under section 300j–3a of this title or under section 300j–3(a)(2) of this title, where such project involves direct human consumption of treated wastewater. Such guidelines shall provide for sufficient control of each such contaminant, such that in the Administrator's judgement, no adverse effects on the health of persons may reasonably be anticipated to occur, allowing an adequate margin of safety.

(2) A grant referred to in paragraph (1) for a project which involves direct human consumption of treated wastewater may be awarded on or after the date of promulgation of guidelines under this section only if the applicant demonstrates to the satisfaction of the Administrator that the project—

(A) will comply with all national primary drinking water regulations under section 300g–1 of this title;

(B) will comply with all guidelines under this section; and

(C) will in other respects provide safe drinking water.

Any such grant awarded before the date of promulgation of such guidelines shall be conditioned on the applicant's agreement to comply to the maximum feasible extent with such guidelines as expeditiously as practicable following the date of promulgation thereof.

(3) Guidelines under this section may, in the discretion of the Administrator—

(A) be nationally and uniformly applicable to all projects funded under section 300j–3a of this title or section 300j–1(a)(2)[1] of this title;

(B) vary for different classes or categories of such projects (as determined by the Administrator);

(C) be established and applicable on a project-by-project basis; or

(D) any combination of the above.

(4) Nothing in this section shall be construed to prohibit or delay the award of any grant referred to in paragraph (1) prior to the date of promulgation of such guidelines.

(Pub. L. 95–477, § 7(b), Oct. 18, 1978, 92 Stat. 1511.)

Editorial Notes

REFERENCES IN TEXT

Section 300j–1(a)(2) of this title, referred to in par. (3)(A), was amended by Pub. L. 104–182, title I, § 121(3), (4)(A), Aug. 6, 1996, 110 Stat. 1651, to redesignate par. (2)(B) as subsec. (b) of section 300j–1, strike par. (2)(A), and add a new par. (2) relating to information and research facilities.

CODIFICATION

Section was enacted as part of the Environmental Research, Development, and Demonstration Authorization Act of 1979, and not as part of the Public Health Service Act which comprises this chapter.

§ 300j–3c. National assistance program for water infrastructure and watersheds

(a) Technical and financial assistance

The Administrator of the Environmental Protection Agency may provide technical and financial assistance in the form of grants to States (1) for the construction, rehabilitation, and improvement of water supply systems, and (2) consistent with nonpoint source management programs established under section 1329 of title 33, for source water quality protection programs to address pollutants in navigable waters for the purpose of making such waters usable by water supply systems.

(b) Limitation

Not more than 30 percent of the amounts appropriated to carry out this section in a fiscal year may be used for source water quality protection programs described in subsection (a)(2).

(c) Condition

As a condition to receiving assistance under this section, a State shall ensure that such assistance is carried out in the most cost-effective manner, as determined by the State.

[1] See References in Text note below.

(d) Authorization of appropriations

(1) Unconditional authorization

There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003. Such sums shall remain available until expended.

(2) Conditional authorization

In addition to amounts authorized under paragraph (1), there are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003, provided that such authorization shall be in effect for a fiscal year only if at least 75 percent of the total amount of funds authorized to be appropriated for such fiscal year by section 300j–12(m) of this title are appropriated.

(e) Acquisition of lands

Assistance provided with funds made available under this section may be used for the acquisition of lands and other interests in lands; however, nothing in this section authorizes the acquisition of lands or other interests in lands from other than willing sellers.

(f) Federal share

The Federal share of the cost of activities for which grants are made under this section shall be 50 percent.

(g) Definitions

In this section, the following definitions apply:

(1) State

The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) Water supply system

The term ''water supply system'' means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves at least 25 individuals and a draw and fill system for the provision to the public of water for human consumption. Such term does not include a system owned by a Federal agency. 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 facilities not under such control that are used primarily in connection with such system.

(Pub. L. 104–182, title IV, § 401, Aug. 6, 1996, 110 Stat. 1690.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Safe Drinking Water Act Amendments of 1996, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

INDIAN RESERVATION DRINKING WATER PROGRAM

Pub. L. 115–270, title II, § 2001, Oct. 23, 2018, 132 Stat. 3840, as amended by Pub. L. 117–58, div. E, title I, § 50111, Nov. 15, 2021, 135 Stat. 1152, provided that:

''(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the 'Administrator') shall carry out a program to implement eligible projects described in subsection (b).

''(b) ELIGIBLE PROJECTS.—A project eligible to participate in the program under subsection (a) is a project—

''(1) that is on a reservation (as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452)) that serves a federally recognized Indian Tribe; and

''(2) that will—

''(A) improve water quality, water pressure, or water services through means such as connecting to, expanding, repairing, improving, or obtaining water from a public water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)); or

''(B) improve water quality or sanitation or wastewater services at a treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)).

''(c) REQUIRED PROJECTS.—

''(1) IN GENERAL.—If sufficient projects exist, of the funds made available to carry out this section, the Administrator shall use 50 percent to carry out—

''(A) 10 eligible projects described in subsection (b) that are within the Upper Missouri River Basin;

''(B) 10 eligible projects described in subsection (b) that are within the Upper Rio Grande Basin;

''(C) 10 eligible projects described in subsection (b) that are within the Columbia River Basin;

''(D) 10 eligible projects described in subsection (b) that are within the Lower Colorado River Basin; and

''(E) 10 eligible projects described in subsection (b) that are within the Arkansas-White-Red River Basin.

''(2) REQUIREMENT.—In carrying out paragraph (1)(A), the Administrator shall select not fewer than 2 eligible projects for a reservation that serves more than 1 federally recognized Indian Tribe.

''(d) PRIORITY.—In selecting projects to carry out under this section, the Administrator shall give priority to projects that—

''(1) respond to emergency situations occurring due to or resulting in a lack of access to clean drinking water that threatens the health of Tribal populations;

''(2) would serve a Tribal population that would qualify as a disadvantaged community based on the affordability criteria established by the applicable State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)); or

''(3) would address the underlying factors contributing to—

''(A) an enforcement action commenced pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.) against the applicable public water system (as defined in section 1401 of that Act (42 U.S.C. 300f)) as of the date of enactment of this subparagraph [Nov. 15, 2021]; or

''(B) an enforcement action commenced pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) against the applicable treatment works (as defined in section 212 of that Act (33 U.S.C. 1292)) as of the date of enactment of this subparagraph.

''(e) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this section shall be 100 percent.

''(f) REPORT.—Not later than 2 years after the date of enactment of this subsection [Nov. 15, 2021], the Administrator shall submit to Congress a report that describes the implementation of the program established under subsection (a), which shall include a description of the use and deployment of amounts made available under that program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program under subsection (a)—

''(1) $20,000,000 for each of fiscal years 2019 through 2021; and

''(2) $50,000,000 for each of fiscal years 2022 through 2026.''

§ 300j–3d. Water supply cost savings

(a) Drinking water technology clearinghouse

The Administrator, in consultation with the Secretary of Agriculture, shall—

(1) develop a technology clearinghouse for information on the cost-effectiveness of innovative and alternative drinking water delivery systems, including wells and well systems; and

(2) disseminate such information to the public and to communities and not-for-profit organizations seeking Federal funding for drinking water delivery systems serving 500 or fewer persons.

(b) Water system assessment

In any application for a grant or loan for the purpose of construction, replacement, or rehabilitation of a drinking water delivery system serving 500 or fewer persons, the funding for which would come from the Federal Government (either directly or through a State), a unit of local government or not-for-profit organization shall self-certify that the unit of local government or organization has considered, as an alternative drinking water supply, drinking water delivery systems sourced by publicly owned—

(1) individual wells;

(2) shared wells; and

(3) community wells.

(c) Report to Congress

Not later than 3 years after December 16, 2016, the Comptroller General of the United States shall submit to Congress a report that describes—

(1) the use of innovative and alternative drinking water delivery systems described in this section;

(2) the range of cost savings for communities using innovative and alternative drinking water delivery systems described in this section; and

(3) the use of drinking water technical assistance programs operated by the Administrator and the Secretary of Agriculture.

(Pub. L. 114–322, title II, § 2108, Dec. 16, 2016, 130 Stat. 1728.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water and Waste Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION OF ''ADMINISTRATOR''

Pub. L. 114–322, title II, § 2002, Dec. 16, 2016, 130 Stat. 1716, provided that: ''In this title [see section 2001 of Pub. L. 114–322, set out as a Short Title of 2016 Amendment note under section 201 of this title], the term 'Administrator' means the Administrator of the Environmental Protection Agency.''

§ 300j–4. Records and inspections

(a) Provision of information to Administrator; monitoring program for unregulated contaminants

(1)(A) Every person who is subject to any requirement of this subchapter 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 the Administrator in establishing regulations under this subchapter, in determining whether such person has acted or is acting in compliance with this subchapter, in administering any program of financial assistance under this subchapter, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

(B) Every person who is subject to a national primary drinking water regulation under section 300g–1 of this title shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this subchapter.

(C) Every person who is subject to a national primary drinking water regulation under section 300g–1 of this title shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 300g–1 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

(D) The Administrator shall not later than 2 years after August 6, 1996, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.

(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor.

(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

(i) INITIAL LIST.—Not later than 3 years after August 6, 1996, and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g).

(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 300j–12(*o*) of this title or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 2019 through 2021.

(b) Entry of establishments, facilities, or other property; inspections; conduct of certain tests; audit and examination of records; entry restrictions; prohibition against informing of a proposed entry

(1) Except as provided in paragraph (2), 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) a national primary drinking water regulation prescribed under section 300g–1 of this title, (B) an applicable underground injection control program, or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person in charge of any of the property of such supplier or other person referred to in clause (A), (B), or (C), is authorized to enter any establishment, 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 subchapter, including for this purpose, inspection, at reasonable times, of 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 subchapter.

(2) No entry may be made under the first sentence of paragraph (1) in an establishment, facility, or other property of a supplier of water or other person subject to a national primary drinking water regulation if the establishment, facility, or other property is located in a State which has primary enforcement responsibility for public water systems unless, before written notice of such entry is made, the Administrator (or his representative) notifies the State agency charged with responsibility for safe drinking water of the reasons for such entry. The Administrator shall, upon a showing by the State agency that such an entry will be detrimental to the administration of the State's program of primary enforcement responsibility, take such showing into consideration in determining whether to make such entry. No State agency which receives notice under this paragraph of an entry proposed to be made under paragraph (1) may use the information contained in the notice to inform the person whose property is proposed to be entered of the proposed entry; and if a State agency so uses such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency has provided him satisfactory assurances that it will no longer so use information contained in a notice under this paragraph.

(c) Penalty

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 subject to a civil penalty of not to exceed $25,000.

(d) Confidential information; trade secrets and secret processes; information disclosure; "information required under this section" defined

(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. 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 application relates (unless the public health or safety requires an earlier release of such information).

(2) Any information required under this section (A) may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this subchapter or to committees of the Congress, or when relevant in any proceeding under this subchapter, and (B) shall be disclosed 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) "Grantee" and "person" defined

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

(f) Information regarding drinking water coolers

The Administrator may utilize the authorities of this section for purposes of part F. Any person who manufactures, imports, sells, or distributes drinking water coolers in interstate commerce shall be treated as a supplier of water for purposes of applying the provisions of this section in the case of persons subject to part F.

(g) Occurrence data base

(1) In general

Not later than 3 years after August 6, 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

(2) Public input

In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure

and design of the data base, data input parameters and requirements, and the use and interpretation of data.

(3) Use

The data shall be used by the Administrator in making determinations under section 300g–1(b)(1) of this title with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

(4) Public recommendations

The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

(A) the contaminant occurs or is likely to occur in drinking water; and

(B) the contaminant poses a risk to public health.

(5) Public availability

The information from the data base shall be available to the public in readily accessible form.

(6) Regulated contaminants

With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

(7) Unregulated contaminants

With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a);

(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer;

(C) if applicable, monitoring information collected by public water systems pursuant to subsection (j) that is not duplicative of monitoring information included in the data base under subparagraph (B) or (D); and

(D) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.

(h) Availability of information on small system technologies

For purposes of sections 300g–1(b)(4)(E) and 300g–4(e) of this title (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 300g–1(b)(4)(E) and 300g–4(e) of this title.

(i) Screening methods

The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.

(j) Monitoring by certain systems

(1) In general

Notwithstanding subsection (a)(2)(A), the Administrator shall, subject to the availability of appropriations for such purpose—

(A) require public water systems serving between 3,300 and 10,000 persons to monitor for unregulated contaminants in accordance with this section; and

(B) ensure that only a representative sample of public water systems serving fewer than 3,300 persons are required to monitor.

(2) Effective date

Paragraph (1) shall take effect 3 years after October 23, 2018.

(3) Limitation

Paragraph (1) shall take effect unless the Administrator determines that there is not sufficient laboratory capacity to accommodate the analysis necessary to carry out monitoring required under such paragraph.

(4) Limitation on enforcement

The Administrator may not enforce a requirement to monitor pursuant to paragraph (1) with respect to any public water system serving fewer than 3,300 persons, including by subjecting such a public water system to any civil penalty.

(5) Authorization of appropriations

There are authorized to be appropriated $15,000,000 in each fiscal year for which monitoring is required to be carried out under this subsection for the Administrator to pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring required under this subsection.

(July 1, 1944, ch. 373, title XIV, § 1445, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1686; amended Pub. L. 95–190, § 12(c), (d), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 99–339, title I, § 106, title III, § 301(h), June 19, 1986, 100 Stat. 650, 665; Pub. L. 100–572, § 5, Oct. 31, 1988, 102 Stat. 2889; Pub. L. 104–182, title I, §§ 111(b), 125(a), (c), (d), 126, Aug. 6, 1996, 110 Stat. 1633, 1653, 1656–1658; Pub. L. 115–270, title II, § 2021, Oct. 23, 2018, 132 Stat. 3861.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(2)(H). Pub. L. 115–270, § 2021(b), substituted ''2019 through 2021'' for ''1997 through 2003''.

Subsec. (g)(7)(C), (D). Pub. L. 115–270, § 2021(c), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (j). Pub. L. 115–270, § 2021(a), added subsec. (j).

1996—Subsec. (a)(1). Pub. L. 104–182, § 125(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Every person who is a supplier of water, who is or may be otherwise subject to a primary drinking water regulation prescribed under section 300g–1 of this title or to an applicable underground injection control program (as defined in section 300h–1(c) of this title), who is or may be subject to the permit requirement of section 300h–3 of this title, or to an order issued under section 300j of this title, 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 subchapter, in determining whether such person has acted or is acting in compliance with this subchapter in administering any program of financial assistance under this subchapter, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.''

Subsec. (a)(2) to (8). Pub. L. 104–182, § 125(c), added heading and text of par. (2) and struck out former pars. (2) to (8) which directed Administrator, not later than 18 months after June 19, 1986, to promulgate regulations requiring every public water system to conduct a monitoring program for unregulated contaminants, specified contents of regulations, provided for reporting and notification of availability of results of monitoring, waiver of monitoring requirements, and compliance by small systems, and authorized appropriations for fiscal year ending Sept. 30, 1987.

Subsec. (g). Pub. L. 104–182, § 126, added subsec. (g).

Subsec. (h). Pub. L. 104–182, § 111(b), added subsec. (h).

Subsec. (i). Pub. L. 104–182, § 125(d), added subsec. (i).

1988—Subsec. (f). Pub. L. 100–572 added subsec. (f).

1986—Subsec. (a)(1). Pub. L. 99–339, § 106(a), (b), designated existing provisions as par. (1) and inserted provisions permitting Administrator to consider size of system and contaminants likely to be found.

Subsec. (a)(2) to (7). Pub. L. 99–339, § 106(b), added pars. (2) to (7).

Subsec. (a)(8). Pub. L. 99–339, § 301(h), added par. (8).

Subsec. (c). Pub. L. 99–339, § 106(c), substituted ''shall be subject to a civil penalty of not to exceed $25,000'' for ''may be fined not more than $5,000''.

1977—Subsec. (a). Pub. L. 95–190, § 12(c), inserted provisions relating to evaluating and advising of health risks of unregulated contaminants.

Subsec. (b)(1). Pub. L. 95–190, § 12(d), designated existing provisions as cls. (A) and (B) and added cl. (C) and reference to such cls. (A) to (C).

§ 300j–5. National Drinking Water Advisory Council

(a) Establishment; membership; representation of interests; term of office, vacancies; reappointment

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, of which two such members shall be associated with small, rural public water systems. 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 terms of the members first taking office shall expire as follows: Five shall expire three years after December 16, 1974, 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) Functions

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 subchapter.

(c) Compensation and allowances; travel expenses

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 traveltime) 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)[1] of title 5.

(d) Advisory committee termination provision inapplicable

Section 1013(a) of title 5 (relating to termination),[2] shall not apply to the Council.

(July 1, 1944, ch. 373, title XIV, § 1446, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L. 104–182, title I, § 127, Aug. 6, 1996, 110 Stat. 1659; Pub. L. 117–286, § 4(a)(245), Dec. 27, 2022, 136 Stat. 4332.)

Editorial Notes

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94–22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–286 substituted ''Section 1013(a) of title 5 (relating to termination),'' for ''Sec-

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

tion 14(a) of the Federal Advisory Committee Act (relating to termination)''.

1996—Subsec. (a). Pub. L. 104–182 inserted '', of which two such members shall be associated with small, rural public water systems'' before period at end of second sentence.

Statutory Notes and Related Subsidiaries

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93–641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 300j–6. Federal agencies

(a) In general

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) owning or operating any facility in a wellhead protection area;

(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area;

(3) owning or operating any public water system; or

(4) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 300h(d)(2) of this title),

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas, respecting such public water systems, and respecting any underground injection in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems or respecting any underground injection. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court[1] with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems or concerning underground injection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this subchapter, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(b) Administrative penalty orders

(1) In general

If the Administrator finds that a Federal agency has violated an applicable requirement under this subchapter, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

(2) Penalties

The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

(3) Procedure

Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an op-

[1] So in original. Probably should not be capitalized.

portunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5.

(4) Public review

(A) In general

Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

(B) Record

The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

(C) Standard of review

The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

(D) Prohibition on additional penalties

The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.

(c) Limitation on State use of funds collected from Federal Government

Unless a State law in effect on August 6, 1996, or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.

(d) Indian rights and sovereignty as unaffected; "Federal agency" defined

(1) Nothing in the Safe Drinking Water Amendments of 1977 shall be construed to alter or affect the status of American Indian lands or water rights nor to waive any sovereignty over Indian lands guaranteed by treaty or statute.

(2) For the purposes of this chapter, the term ''Federal agency'' shall not be construed to refer to or include any American Indian tribe, nor to the Secretary of the Interior in his capacity as trustee of Indian lands.

(e) Washington Aqueduct

The Secretary of the Army shall not pass the cost of any penalty assessed under this subchapter on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.

(July 1, 1944, ch. 373, title XIV, § 1447, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L. 95–190, § 8(a), (d), Nov. 16, 1977, 91 Stat. 1396, 1397; Pub. L. 104–182, title I, § 129(a), (c), Aug. 6, 1996, 110 Stat. 1660, 1662.)

Editorial Notes

REFERENCES IN TEXT

The Safe Drinking Water Amendments of 1977, referred to in subsec. (d)(1), is Pub. L. 95–190, Nov. 16, 1977, 91 Stat. 1393. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

1996—Subsecs. (a) to (d). Pub. L. 104–182, § 129(a), added subsecs. (a) to (c), redesignated former subsec. (c) as (d), and struck out former subsecs. (a) and (b) which related to compliance by Federal agencies with Federal, State, and local requirements respecting provision of safe drinking water and respecting underground injection programs, liability for civil penalties, and waiver of compliance requirements when necessary in interest of national security.

Subsec. (e). Pub. L. 104–182, § 129(c), added subsec. (e).

1977—Subsec. (a). Pub. L. 95–190, § 8(a), substituted provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems, or engaged in underground injection activities with Federal, State, and local requirements, etc., for provisions relating to compliance by Federal agencies having jurisdiction over federally owned or maintained public water systems with national primary drinking water regulations.

Subsec. (c). Pub. L. 95–190, § 8(d), added subsec. (c).

§ 300j–7. Judicial review

(a) Courts of appeals; petition for review: actions respecting regulations; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

A petition for review of—

(1) actions pertaining to the establishment of national primary drinking water regulations (including maximum contaminant level goals) may be filed only in the United States Court of Appeals for the District of Columbia circuit; and

(2) any other final action of the Administrator under this chapter may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or any other final Agency action with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement. In any petition concerning the assessment of a civil penalty

pursuant to section 300g–3(g)(3)(B) of this title, the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

(b) District courts; petition for review: actions respecting variances or exemptions; filing period; grounds arising after expiration of filing period; exclusiveness of remedy

The United States district courts shall have jurisdiction of actions brought to review (1) the granting of, or the refusing to grant, a variance or exemption under section 300g–4 or 300g–5 of this title or (2) the requirements of any schedule prescribed for a variance or exemption under such section or the failure to prescribe such a schedule. Such an action may only be brought upon a petition for review filed with the court within the 45-day period beginning on the date the action sought to be reviewed is taken or, in the case of a petition to review the refusal to grant a variance or exemption or the failure to prescribe a schedule, within the 45-day period beginning on the date action is required to be taken on the variance, exemption, or schedule, as the case may be. A petition for such review may be filed after the expiration of such period if the petition is based solely on grounds arising after the expiration of such period. Action with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement.

(c) Judicial order for additional evidence before Administrator; modified or new findings; recommendation for modification or setting aside of original determination

In any judicial proceeding in which review is sought of a determination under this subchapter required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such term and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(July 1, 1944, ch. 373, title XIV, § 1448, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1689; amended Pub. L. 99–339, title III, § 303, June 19, 1986, 100 Stat. 667; Pub. L. 104–182, title I, § 113(c), Aug. 6, 1996, 110 Stat. 1636.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–182, § 113(c)(2), (3), in concluding provisions, substituted ''or any other final Agency action'' for ''or issuance of the order'' and inserted at end ''In any petition concerning the assessment of a civil penalty pursuant to section 300g–3(g)(3)(B) of this title, the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.''

Subsec. (a)(2). Pub. L. 104–182, § 113(c)(1), substituted ''any other final action'' for ''any other action''.

1986—Subsec. (a)(1). Pub. L. 99–339, § 303(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''action of the Administrator in promulgating any national primary drinking water regulation under section 300g–1 of this title, any regulation under section 300g–2(b)(1) of this title, any regulation under section 300g–3(c) of this title, any regulation for State underground injection control programs under section 300h of this title, or any general regulation for the administration of this subchapter may be filed only in the United States Court of Appeals for the District of Columbia Circuit; and''.

Subsec. (a)(2). Pub. L. 99–339, § 303(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''action of the Administrator in promulgating any other regulation under this subchapter, issuing any order under this subchapter, or making any determination under this subchapter may be filed only in the United States court of appeals for the appropriate circuit.''

§ 300j–8. Citizen's civil action

(a) Persons subject to civil action; jurisdiction of enforcement proceedings

Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any requirement prescribed by or under this subchapter;

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this subchapter which is not discretionary with the Administrator; or

(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 300h–8(b)[1] of this title, to pay the penalty.

No action may be brought under paragraph (1) against a public water system for a violation of a requirement prescribed by or under this subchapter which occurred within the 27-month period beginning on the first day of the month in which this subchapter is enacted. The United States district courts shall have jurisdiction, without regard to the amount in controversy or

[1] So in original. Probably should be section ''300j–6(b)''.

the citizenship of the parties, to enforce in an action brought under this subsection any requirement prescribed by or under this subchapter or to order the Administrator to perform an act or duty described in paragraph (2), as the case may be.

(b) Conditions for commencement of civil action; notice

No civil action may be commenced—

(1) under subsection (a)(1) of this section respecting violation of a requirement prescribed by or under this subchapter—

(A) prior to sixty days after the plaintiff has given notice of such violation (i) to the Administrator, (ii) to any alleged violator of such requirement and (iii) to the State in which the violation occurs, or

(B) if the Administrator, the Attorney General, or the State has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with such requirement, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator; or

(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.

Notice required by this subsection shall be given in such manner as the Administrator shall prescribe by regulation. No person may commence a civil action under subsection (a) to require a State to prescribe a schedule under section 300g–4 or 300g–5 of this title for a variance or exemption, unless such person shows to the satisfaction of the court that the State has in a substantial number of cases failed to prescribe such schedules.

(c) Intervention of right

In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) Costs; attorney fees; expert witness fees; filing of bond

The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Availability of other relief

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any requirement prescribed by or under this subchapter or to seek any other relief. Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State or local government from—

(1) bringing any action or obtaining any remedy or sanction in any State or local court, or

(2) bringing any administrative action or obtaining any administrative remedy or sanction,

against any agency of the United States under State or local law to enforce any requirement respecting the provision of safe drinking water or respecting any underground injection control program. Nothing in this section shall be construed to authorize judicial review of regulations or orders of the Administrator under this subchapter, except as provided in section 300j–7 of this title. For provisions providing for application of certain requirements to such agencies in the same manner as to nongovernmental entities, see section 300j–6 of this title.

(July 1, 1944, ch. 373, title XIV, § 1449, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1690; amended Pub. L. 95–190, § 8(c), Nov. 16, 1977, 91 Stat. 1397; Pub. L. 104–182, title I, § 129(b), Aug. 6, 1996, 110 Stat. 1662.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–182, § 129(b)(1), added par. (3).

Subsec. (b)(3). Pub. L. 104–182, § 129(b)(2), added par. (3).

1977—Subsec. (e). Pub. L. 95–190 inserted provisions relating to suits by State or local governments for enforcement of safe drinking water, etc., requirements.

§ 300j–9. General provisions

(a) Regulations; delegation of functions

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

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

(b) Utilization of officers and employees of Federal agencies

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 subchapter.

(c) Assignment of Agency personnel to State or interstate agencies

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 subchapter.

(d) Payments of grants; adjustments; advances; reimbursement; installments; conditions; eligibility for grants; "nonprofit agency or institution" defined

(1) The Administrator may make payments of grants under this subchapter (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) Labor standards

The Administrator shall take such action as may be necessary to assure compliance with provisions of sections 3141–3144, 3146, and 3147 of title 40. 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 3145 of title 40.

(f) Appearance and representation of Administrator through Attorney General or attorney appointees

The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this subchapter 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) Authority of Administrator under other provisions unaffected

The provisions of this subchapter shall not be construed as affecting any authority of the Administrator under part G of subchapter II of this chapter.

(h) Reports to Congressional committees; review by Office of Management and Budget: submittal of comments to Congressional committees

Not later than April 1 of each year, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report respecting the activities of the Agency under this subchapter 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 subchapter. The Office of Management and Budget may review any report required by this subsection before its submission to such committees of 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 such committees of Congress its comments respecting any such report.

(i) Discrimination prohibition; filing of complaint; investigation; orders of Secretary; notice and hearing; settlements; attorneys' fees; judicial review; filing of petition; procedural requirements; stay of orders; exclusiveness of remedy; civil actions for enforcement of orders; appropriate relief; mandamus proceedings; prohibition inapplicable to undirected but deliberate violations

(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this subchapter or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,

(B) testified or is about to testify in any such proceeding, or

(C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this subchapter.

(2)(A) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the ''Secretary'') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(B)(i) Upon receipt of a complaint filed under subparagraph (A), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by clause (ii) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(ii) If in response to a complaint filed under subparagraph (A) the Secretary determines that a violation of paragraph (1) has occurred, the Secretary shall order (I) the person who committed such violation to take affirmative action to abate the violation, (II) such person to reinstate the complainant to his former position together with the compensation (including back

pay), terms, conditions, and privileges of his employment, (III) compensatory damages, and (IV) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(3)(A) Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(4) Whenever a person has failed to comply with an order issued under paragraph (2)(B), the Secretary shall file a civil action in the United States District Court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

(5) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28.

(6) Paragraph (1) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this subchapter.

(July 1, 1944, ch. 373, title XIV, § 1450, as added Pub. L. 93–523, § 2(a), Dec. 16, 1974, 88 Stat. 1691; amended Pub. L. 98–620, title IV, § 402(38), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 103–437, § 15(a)(2), Nov. 2, 1994, 108 Stat. 4591.)

Editorial Notes

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees.

Part G of subchapter II of this chapter, referred to in subsec. (g), is classified to section 264 et seq. of this title.

CODIFICATION

In subsec. (e), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a—276a(5))'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1994—Subsec. (h). Pub. L. 103–437 substituted ''Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House'' for ''Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House''.

1984—Subsec. (i)(4). Pub. L. 98–620 struck out provision which required civil actions filed under par. (4) to be heard and decided expeditiously.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

APPLICABILITY OF LABOR STANDARDS TO DRINKING WATER TREATMENT CONSTRUCTION PROJECTS

Pub. L. 112–74, div. E, title II, Dec. 23, 2011, 125 Stat. 1020, provided in part: ''For fiscal year 2012 and each fiscal year thereafter, the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j–9(e)) shall apply to any construction project carried out in whole or in part with assistance made available by a drinking water treatment revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j–12).''

§ 300j–10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act [42 U.S.C. 300f et seq.] (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS–18 of the General Schedule under section 5332 of title 5.

(Pub. L. 95–190, § 11(b), Nov. 16, 1977, 91 Stat. 1398.)

Editorial Notes

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Public Health Service Act is classified generally to this subchapter (§ 300f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Safe Drinking Water Amendments of 1977, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 300j–11. Indian Tribes

(a) In general

Subject to the provisions of subsection (b), the Administrator—

(1) is authorized to treat Indian Tribes as States under this subchapter,

(2) may delegate to such Tribes primary enforcement responsibility for public water systems and for underground injection control, and

(3) may provide such Tribes grant and contract assistance to carry out functions provided by this subchapter.

(b) EPA regulations

(1) Specific provisions

The Administrator shall, within 18 months after June 19, 1986, promulgate final regulations specifying those provisions of this subchapter for which it is appropriate to treat Indian Tribes as States. Such treatment shall be authorized only if:

(A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;

(B) the functions to be exercised by the Indian Tribe are within the area of the Tribal Government's jurisdiction; and

(C) the Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this subchapter and of all applicable regulations.

(2) Provisions where treatment as State inappropriate

For any provision of this subchapter where treatment of Indian Tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this subchapter, the Administrator may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of the provision. Nothing in this section shall be construed to allow Indian Tribes to assume or maintain primary enforcement responsibility for public water systems or for underground injection control in a manner less protective of the health of persons than such responsibility may be assumed or maintained by a State. An Indian tribe[1] shall not be required to exercise criminal enforcement jurisdiction for purposes of complying with the preceding sentence.

(July 1, 1944, ch. 373, title XIV, § 1451, as added Pub. L. 99–339, title III, § 302(a), June 19, 1986, 100 Stat. 665; amended Pub. L. 104–182, title V, § 501(f)(6), Aug. 6, 1996, 110 Stat. 1692.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j–12. State revolving loan funds

(a) General authority

(1) Grants to States to establish State loan funds

(A) In general

The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this subchapter, promote the efficient use of fund resources, and for other purposes as are specified in this subchapter.

(B) Establishment of fund

To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a ''State loan fund'') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this subchapter. No funds authorized by other provisions of this subchapter to be used for other purposes specified in this subchapter shall be deposited in any State loan fund.

(C) Extended period

The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

(D) Allotment formula

Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 300j–2 of this title in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum

[1] So in original. Probably should be capitalized.

proportionate share for the State of Wyoming and the District of Columbia; and

(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

(E) Reallotment

The grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

(F) Nonprimacy States

The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 300j–2(a)(9)(A) of this title such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this subchapter in such State and the remainder shall be reallotted to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 300g–2(b) of this title that the requirements of section 300g–2(a) of this title are no longer being met by a State, additional grants for such State under this subchapter shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of August 6, 1996.

(G) Other programs

(i) New system capacity

Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 300g–9(a) of this title (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 300g–9(c) of this title (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 300g–9 of this title (relating to capacity development).

(ii) Operator certification

The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 300g–8[1] of this title (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 300g–8 of this title (relating to operator certification).

(2) Use of funds

(A) In general

Except as otherwise authorized by this subchapter, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies.

(B) Limitation

Financial assistance under this section may be used by a public water system only for expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 300g–1 of this title or otherwise significantly further the health protection objectives of this subchapter.

(C) Sale of bonds

Funds may also be used by a public water system as a source of revenue (restricted solely to interest earnings of the applicable State loan fund) or security for payment of the principal and interest on revenue or general obligation bonds issued by the State to provide matching funds under subsection (e),

[1] So in original. Probably should be preceded by ''section''.

if the proceeds of the sale of the bonds will be deposited in the State loan fund.

(D) Water treatment loans

The funds under this section may also be used to provide loans to a system referred to in section 300f(4)(B) of this title for the purpose of providing the treatment described in section 300f(4)(B)(i)(III) of this title.

(E) Acquisition of real property

The funds under this section shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller.

(F) Loan assistance

Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

(G) Emerging contaminants

(i) In general

Notwithstanding any other provision of law and subject to clause (ii), amounts deposited under subsection (t) in a State loan fund established under this section may only be used to provide grants for the purpose of addressing emerging contaminants, with a focus on perfluoroalkyl and polyfluoroalkyl substances.

(ii) Requirements

(I) Small and disadvantaged communities

Not less than 25 percent of the amounts described in clause (i) shall be used to provide grants to—

(aa) disadvantaged communities (as defined in subsection (d)(3)); or

(bb) public water systems serving fewer than 25,000 persons.

(II) Priorities

In selecting the recipient of a grant using amounts described in clause (i), a State shall use the priorities described in subsection (b)(3)(A).

(iii) No increased bonding authority

The amounts deposited in the State loan fund of a State under subsection (t) may not be used as a source of payment of, or security for (directly or indirectly), in whole or in part, any obligation the interest on which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986.

(3) Limitation

(A) In general

Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this subchapter; or

(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

(B) Restructuring

A public water system described in subparagraph (A) may receive assistance under this section if—

(i) the use of the assistance will ensure compliance; and

(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this subchapter over the long term.

(C) Review

Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

(4) American iron and steel products

(A) In general

Funds made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States.

(B) Definition of iron and steel products

In this paragraph, the term ''iron and steel products'' means the following products made primarily of iron or steel:

(i) Lined or unlined pipes and fittings.

(ii) Manhole covers and other municipal castings.

(iii) Hydrants.

(iv) Tanks.

(v) Flanges.

(vi) Pipe clamps and restraints.

(vii) Valves.

(viii) Structural steel.

(ix) Reinforced precast concrete.

(x) Construction materials.

(C) Application

Subparagraph (A) shall be waived in any case or category of cases in which the Administrator finds that—

(i) applying subparagraph (A) would be inconsistent with the public interest;

(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(D) Waiver

If the Administrator receives a request for a waiver under this paragraph, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Agency.

(E) International agreements

This paragraph shall be applied in a manner consistent with United States obligations under international agreements.

(F) Management and oversight

The Administrator may retain up to 0.25 percent of the funds appropriated for this section for management and oversight of the requirements of this paragraph.

(G) Effective date

This paragraph does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to December 16, 2016.

(5) Prevailing wages

The requirements of section 300j–9(e) of this title shall apply to any construction project carried out in whole or in part with assistance made available by a State loan fund.

(b) Intended use plans

(1) In general

After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

(2) Contents

An intended use plan shall include—

(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

(B) the criteria and methods established for the distribution of funds; and

(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

(3) Use of funds

(A) In general

An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

(i) address the most serious risk to human health;

(ii) are necessary to ensure compliance with the requirements of this subchapter (including requirements for filtration); and

(iii) assist systems most in need on a per household basis according to State affordability criteria.

(B) List of projects

Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

(c) Fund management

Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

(d) Assistance for disadvantaged communities

(1) Loan subsidy

(A) In general

Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt).

(B) Exclusion

A loan from a State loan fund with an interest rate equal to or greater than 0 percent shall not be considered additional subsidization for purposes of this subsection.

(2) Total amount of subsidies

For each fiscal year, of the amount of the capitalization grant received by the State for the year, the total amount of loan subsidies made by a State pursuant to paragraph (1)—

(A) may not exceed 35 percent; and

(B) to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 12 percent.

(3) "Disadvantaged community" defined

In this subsection, the term ''disadvantaged community'' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

(e) State contribution

Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant

to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

(f) Types of assistance

Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

(1) to make loans, on the condition that—

(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

(B) principal and interest payments on each loan will commence not later than 18 months after completion of the project for which the loan was made;

(C) each loan will be fully amortized not later than 30 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)) a State may provide an extended term for a loan, if the extended term—

(i) terminates not later than the date that is 40 years after the date of project completion; and

(ii) does not exceed the expected design life of the project;

(D) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

(E) the State loan fund will be credited with all payments of principal and interest on each loan;

(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

(5) to earn interest on the amounts deposited into the State loan fund.

(g) Administration of State loan funds

(1) Combined financial administration

Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 300g–2 of this title, after consultation with other appropriate State agencies (as determined by the State): *Provided*, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

(2) Cost of administering fund

(A) Authorization

(i) In general

For each fiscal year, a State may use the amount described in clause (ii)—

(I) to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund that are incurred after August 6, 1996; and

(II) to provide technical assistance to public water systems within the State.

(ii) Description of amount

The amount referred to in clause (i) is an amount equal to the sum of—

(I) the amount of any fees collected by the State for use in accordance with clause (i)(I), regardless of the source; and

(II) the greatest of—

(aa) $400,000;

(bb) ⅕ percent of the current valuation of the fund; and

(cc) an amount equal to 4 percent of all grant awards to the fund under this section for the fiscal year.

(B) Additional use of funds

For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

(i) for public water system supervision programs under section 300j–2(a) of this title;

(ii) to administer or provide technical assistance through source water protection programs;

(iii) to develop and implement a capacity development strategy under section 300g–9(c) of this title; and

(iv) for an operator certification program for purposes of meeting the requirements of section 300g–8 of this title.

(C) Technical assistance

An additional 2 percent of the funds annually allotted to each State under this sec-

tion may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State.

(D) Enforcement actions

Funds used under subparagraph (B)(ii) shall not be used for enforcement actions.

(3) Guidance and regulations

The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this subchapter and applicable State laws;

(B) guidance to prevent waste, fraud, and abuse; and

(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(4) State report

Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pursuant to this section in accordance with procedures established by the Comptroller General.

(h) Needs survey

(1) The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after August 6, 1996, and every 4 years thereafter.

(2) Any assessment conducted under paragraph (1) after October 23, 2018, shall include an assessment of costs to replace all lead service lines (as defined in section 300j–19b(a)(4) of this title) of all eligible public water systems in the United States, and such assessment shall describe separately the costs associated with replacing the portions of such lead service lines that are owned by an eligible public water system and the costs associated with replacing any remaining portions of such lead service lines, to the extent practicable.

(i) Indian Tribes

(1) In general

1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes, Alaska Native villages, and, for the purpose of carrying out paragraph (5), intertribal consortia or tribal organizations, that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. Except as otherwise provided, the grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

(2) Use of funds

Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

(3) Alaska Native villages

In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

(4) Needs assessment

The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

(5) Training and operator certification

(A) In general

The Administrator may use funds made available under this subsection and section 300j–1(e)(7) of this title to make grants to intertribal consortia or tribal organizations for the purpose of providing operations and maintenance training and operator certification services to Indian Tribes to enable public water systems that serve Indian Tribes to achieve and maintain compliance with applicable national primary drinking water regulations.

(B) Eligible tribal organizations

Intertribal consortia or tribal organizations eligible for a grant under subparagraph (A) are intertribal consortia or tribal organizations that—

(i) as determined by the Administrator, are the most qualified and experienced to provide training and technical assistance to Indian Tribes; and

(ii) the Indian Tribes find to be the most beneficial and effective.

(j) Other areas

Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 300j–2(a)(4) of this title for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The

grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

(k) Other authorized activities

(1) In general

Notwithstanding subsection (a)(2), a State may take each of the following actions:

(A) Provide assistance, only in the form of a loan, to one or more of the following:

(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 300j–13 of this title, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 300g–1 of this title or otherwise significantly further the health protection objectives of this subchapter. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(iii) Any community water system to provide funding in accordance with section 300j–14(a)(1)(B)(i) of this title.

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 300g–9(c) of this title.

(C) Make expenditures from the capitalization grant of the State to delineate, assess, and update assessments for source water protection areas in accordance with section 300j–13 of this title, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 300h–7 of this title and for the implementation of efforts (other than actions authorized under subparagraph (A)) to protect source water in areas delineated pursuant to section 300j–13 of this title.

(2) Limitation

For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

(E) To make expenditures to establish and implement wellhead protection programs, and to implement efforts to protect source water, pursuant to paragraph (1)(D).

(3) Statutory construction

Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

***(l)* Savings**

The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this subchapter.

(m) Authorization of appropriations

(1) There are authorized to be appropriated to carry out the purposes of this section, except for subsections (a)(2)(G) and (t)—

(A) $1,174,000,000 for fiscal year 2019;

(B) $1,300,000,000 for fiscal year 2020;

(C) $1,950,000,000 for fiscal year 2021;

(D) $2,400,000,000 for fiscal year 2022;

(E) $2,750,000,000 for fiscal year 2023;

(F) $3,000,000,000 for fiscal year 2024; and

(G) $3,250,000,000 for each of fiscal years 2025 and 2026.

(2) To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year. Such sums shall remain available until expended.

(n) Health effects studies

From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 300j–18(c) of this title), disinfection byproducts (as authorized by section 300j–18(c) of this title), and arsenic (as authorized by section 300g–1(b)(12)(A) of this title), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 300j–18(a) of this title).

(*o*) Monitoring for unregulated contaminants

From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 300j–4(a)(2)(C) of this title.

(p) Demonstration project for State of Virginia

Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on August 6, 1996, and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

(q) Small system technical assistance

The Administrator may reserve up to 2 percent of the total funds made available to carry out this section for each of fiscal years 2022 through 2026 to carry out the provisions of section 300j–1(e) of this title (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 300j–1(e) of this title) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 300j–1(e) of this title.

(r) Evaluation

The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.

(s) Best practices for State loan fund administration

The Administrator shall—

(1) collect information from States on administration of State loan funds established pursuant to subsection (a)(1), including—

(A) efforts to streamline the process for applying for assistance through such State loan funds;

(B) programs in place to assist with the completion of applications for assistance through such State loan funds;

(C) incentives provided to public water systems that partner with small public water systems to assist with the application process for assistance through such State loan funds;

(D) practices to ensure that amounts in such State loan funds are used to provide loans, loan guarantees, or other authorized assistance in a timely fashion;

(E) practices that support effective management of such State loan funds;

(F) practices and tools to enhance financial management of such State loan funds; and

(G) key financial measures for use in evaluating State loan fund operations, including—

(i) measures of lending capacity, such as current assets and current liabilities or undisbursed loan assistance liability; and

(ii) measures of growth or sustainability, such as return on net interest;

(2) not later than 3 years after October 23, 2018, disseminate to the States best practices for administration of such State loan funds, based on the information collected pursuant to this subsection; and

(3) periodically update such best practices, as appropriate.

(t) Emerging contaminants

(1) In general

Amounts made available under this subsection shall be allotted to a State as if allotted under subsection (a)(1)(D) as a capitalization grant, for deposit into the State loan fund of the State, for the purposes described in subsection (a)(2)(G).

(2) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2020 through 2024, to remain available until expended.

(July 1, 1944, ch. 373, title XIV, § 1452, as added Pub. L. 104–182, title I, § 130, Aug. 6, 1996, 110 Stat. 1662; amended Pub. L. 114–322, title II, §§ 2102, 2103, 2110, 2112(b), 2113, Dec. 16, 2016, 130 Stat. 1717, 1729, 1730; Pub. L. 115–270, title II, §§ 2002, 2015, 2022, 2023, Oct. 23, 2018, 132 Stat. 3840, 3854, 3862; Pub. L. 116–92, div. F, title LXXIII, § 7312, Dec. 20, 2019, 133 Stat. 2277; Pub. L. 117–58, div. E, title I, § 50102, Nov. 15, 2021, 135 Stat. 1136.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (a)(2)(G)(iii), is classified generally to Title 26, Internal Revenue Code.

The Safe Drinking Water Act Amendments of 1996, referred to in subsec. (n), is Pub. L. 104–182, Aug. 6, 1996, 110 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 201 of this title and Tables.

AMENDMENTS

2021—Subsec. (a)(4)(A). Pub. L. 117–58, § 50102(a)(1), substituted ''Funds'' for ''During fiscal years 2019 through 2023, funds''.

Subsec. (d)(1). Pub. L. 117–58, § 50102(b)(1), designated existing provisions as subpar. (A), inserted subpar. heading, inserted '', grants, negative interest loans, other loan forgiveness, and through buying, refi-

nancing, or restructuring debt'' after ''forgiveness of principal'', and added subpar. (B).

Subsec. (d)(2)(B). Pub. L. 117–58, § 50102(b)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.''

Subsec. (m)(1)(D) to (G). Pub. L. 117–58, § 50102(a)(2), added subpars. (D) to (G).

Subsec. (q). Pub. L. 117–58, § 50102(a)(3), substituted ''2022 through 2026'' for ''2016 through 2021''.

2019—Subsec. (a)(2)(G). Pub. L. 116–92, § 7312(1), added subpar. (G).

Subsec. (m)(1). Pub. L. 116–92, § 7312(2), substituted ''this section, except for subsections (a)(2)(G) and (t)'' for ''this section'' in introductory provisions.

Subsec. (t). Pub. L. 116–92, § 7312(3), added subsec. (t).

2018—Subsec. (a)(2)(B). Pub. L. 115–270, § 2015(a), substituted ''(including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not'' for ''(including expenditures for planning, design, and associated preconstruction activities, including activities relating to the siting of the facility, but not''.

Subsec. (a)(4)(A). Pub. L. 115–270, § 2022, substituted ''fiscal years 2019 through 2023'' for ''fiscal year 2017''.

Subsec. (a)(5). Pub. L. 115–270, § 2015(b), added par. (5).

Subsec. (d)(2). Pub. L. 115–270, § 2015(c), amended par. (2) generally. Prior to amendment, text read as follows: ''For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.''

Subsec. (f)(1)(B). Pub. L. 115–270, § 2015(d)(3), substituted ''18 months after completion of the project for which the loan was made;'' for ''1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term—

''(i) terminates not later than the date that is 30 years after the date of project completion; and

''(ii) does not exceed the expected design life of the project;''.

Subsec. (f)(1)(C) to (E). Pub. L. 115–270, § 2015(d)(1), (2), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (h). Pub. L. 115–270, § 2015(e), designated existing provisions as par. (1) and added par. (2).

Subsec. (k)(1)(C). Pub. L. 115–270, § 2015(f), substituted ''to delineate, assess, and update assessments for source water protection areas in accordance with section 300j–13 of this title'' for ''for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 300j–13 of this title''.

Subsec. (k)(1)(D). Pub. L. 115–270, § 2002(1), inserted ''and for the implementation of efforts (other than actions authorized under subparagraph (A)) to protect source water in areas delineated pursuant to section 300j–13 of this title'' before period at end.

Subsec. (k)(2)(E). Pub. L. 115–270, § 2002(2), inserted '', and to implement efforts to protect source water,'' after ''wellhead protection programs''.

Subsec. (m). Pub. L. 115–270, § 2023, substituted par. (1) for first sentence which read ''There are authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003.'', designated second and third sentences as par. (2), and, in par. (2), struck out ''(prior to the fiscal year 2004)'' after ''subsequent fiscal year''.

Subsec. (s). Pub. L. 115–270, § 2015(g), added subsec. (s).

2016—Subsec. (a)(2)(A). Pub. L. 114–322, § 2102(5), designated first sentence of par. (2) as subpar. (A) and inserted heading.

Subsec. (a)(2)(B). Pub. L. 114–322, § 2102(4), (6), designated second sentence of par. (2) as subpar. (B), inserted heading, and substituted ''(including expenditures for planning, design, and associated preconstruction activities, including activities relating to the siting of the facility, but not'' for ''(not''.

Subsec. (a)(2)(C). Pub. L. 114–322, § 2102(7), added subpar. (C).

Subsec. (a)(2)(D). Pub. L. 114–322, § 2102(3), designated third sentence of par. (2) as subpar. (D), inserted heading, and substituted ''The funds under this section'' for ''The funds''.

Subsec. (a)(2)(E). Pub. L. 114–322, § 2102(2), designated fourth sentence of par. (2) as subpar. (E), inserted heading, and substituted ''The funds under this section'' for ''The funds''.

Subsec. (a)(2)(F). Pub. L. 114–322, § 2102(1), designated fifth sentence of par. (2) as subpar. (F) and inserted heading.

Subsec. (a)(4). Pub. L. 114–322, § 2113, added par. (4).

Subsec. (g)(2). Pub. L. 114–322, § 2103(4), struck out third sentence of par. (2) which read as follows: ''At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993.''

Subsec. (g)(2)(A). Pub. L. 114–322, § 2103(6), added subpar. (A) and struck out first sentence of par. (2) which read as follows: ''Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after August 6, 1996, and to provide technical assistance to public water systems within the State.'' Former subpar. (A) redesignated subpar. (B)(i).

Subsec. (g)(2)(B). Pub. L. 114–322, § 2103(7)(B), struck out ''if the State matches the expenditures with at least an equal amount of State funds.'' before ''At least half'' in concluding provisions.

Pub. L. 114–322, § 2103(1), (5), redesignated second sentence of par. (2) as subpar. (B), inserted heading, and redesignated former pars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (B).

Subsec. (g)(2)(B)(iv). Pub. L. 114–322, § 2103(7)(A), substituted ''300g–8 of this title.'' for ''300g–8 of this title,''.

Subsec. (g)(2)(C). Pub. L. 114–322, § 2103(3), designated fourth sentence of par. (2) as subpar. (C) and inserted heading. Former subpar. (C) redesignated subpar. (B)(iii).

Subsec. (g)(2)(D). Pub. L. 114–322, § 2103(2), added subpar. (D) and struck out fifth sentence of par. (2) which read as follows: ''Funds utilized under subparagraph (B) shall not be used for enforcement actions.'' Former subpar. (D) redesignated subpar. (B)(iv).

Subsec. (i)(1). Pub. L. 114–322, § 2112(b)(1), substituted ''Tribes, Alaska Native villages, and, for the purpose of carrying out paragraph (5), intertribal consortia or tribal organizations,'' for ''Tribes and Alaska Native villages'' and ''Except as otherwise provided, the grants'' for ''The grants''.

Subsec. (i)(5). Pub. L. 114–322, § 2112(b)(2), added par. (5).

Subsec. (q). Pub. L. 114–322, § 2110, substituted ''made available to carry out this section for each of fiscal years 2016 through 2021'' for ''appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003''.

Statutory Notes and Related Subsidiaries

ASSISTANCE FOR AREAS AFFECTED BY NATURAL DISASTERS

Pub. L. 115–270, title II, § 2020, Oct. 23, 2018, 132 Stat. 3859, provided that:

''(a) DEFINITIONS.—In this section:

''(1) COMMUNITY WATER SYSTEM.—The term 'community water system' has the meaning given such term in section 1401(15) of the Safe Drinking Water Act (42 U.S.C. 300f(15)).

''(2) ELIGIBLE STATE.—The term 'eligible State' means a State, as defined in section 1401(13)(B) of the Safe Drinking Water Act (42 U.S.C. 300f(13)(B)).

''(3) ELIGIBLE SYSTEM.—The term 'eligible system' means a community water system—

''(A) that serves an area for which, after January 1, 2017, the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)—

''(i) has issued a major disaster declaration; and

''(ii) provided disaster assistance; or

''(B) that is capable of extending its potable drinking water service into an underserved area.

''(4) NATIONAL PRIMARY DRINKING WATER REGULATION.—The term 'national primary drinking water regulation' means a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1).

''(5) UNDERSERVED AREA.—The term 'underserved area' means a geographic area in an eligible State that—

''(A) is served by a community water system serving fewer than 50,000 persons where delivery of, or access to, potable water is or was disrupted; and

''(B) received disaster assistance pursuant to a declaration described in paragraph (3)(A).

''(b) STATE REVOLVING LOAN FUND ASSISTANCE.—

''(1) IN GENERAL.—An eligible State may use funds provided pursuant to subsection (e)(1) to provide assistance to an eligible system within the eligible State for the purpose of restoring or increasing compliance with national primary drinking water regulations in an underserved area.

''(2) INCLUSION.—

''(A) ADDITIONAL SUBSIDIZATION.—With respect to assistance provided under paragraph (1), an eligible system shall be eligible to receive loans with additional subsidization (including forgiveness of principal, negative-interest loans, or grants (or any combination thereof)) for the purpose described in paragraph (1).

''(B) NONDESIGNATION.—Assistance provided under paragraph (1) may include additional subsidization, as described in subparagraph (A), even if the service area of the eligible system has not been designated by the applicable eligible State as a disadvantaged community pursuant to section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)).

''(c) EXCLUSION.—Assistance provided under this section shall not include assistance for a project that is financed (directly or indirectly), in whole or in part, with proceeds of any obligation issued after the date of enactment of this Act [Oct. 23, 2018] the interest of which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

''(d) NONDUPLICATION OF WORK.—An activity carried out pursuant to this section shall not duplicate the work or activity of any other Federal or State department or agency.

''(e) ADDITIONAL DRINKING WATER STATE REVOLVING FUND CAPITALIZATION GRANTS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000,000 to provide additional capitalization grants pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) to eligible States, to be available—

''(A) for a period of 24 months beginning on the date on which the funds are made available for the purpose described in subsection (b)(1); and

''(B) after the end of such 24-month period, until expended for the purpose described in paragraph (3) of this subsection.

''(2) SUPPLEMENTED INTENDED USE PLANS.—

''(A) OBLIGATION OF AMOUNTS.—Not later than 30 days after the date on which an eligible State submits to the Administrator a supplemental intended use plan under section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)), from funds made available under paragraph (1), the Administrator shall obligate to such eligible State such amounts as are appropriate to address the needs identified in such supplemental intended use plan for the purpose described in subsection (b)(1).

''(B) PLANS.—A supplemental intended use plan described in subparagraph (A) shall include information regarding projects to be funded using the assistance provided under subsection (b)(1), including, with respect to each such project—

''(i) a description of the project;

''(ii) an explanation of the means by which the project will restore or improve compliance with national primary drinking water regulations in an underserved area;

''(iii) the estimated cost of the project; and

''(iv) the projected start date for the project.

''(3) UNOBLIGATED AMOUNTS.—Any amounts made available to the Administrator under paragraph (1) that are unobligated on the date that is 24 months after the date on which the amounts are made available shall be available for the purpose of providing additional grants to States to capitalize State loan funds as provided under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

''(4) APPLICABILITY.—

''(A) IN GENERAL.—Except as otherwise provided in this section, all requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) shall apply to funding provided under this section.

''(B) INTENDED USE PLANS.—Section 1452(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)(1)) shall not apply to a supplemental intended use plan under paragraph (2).

''(C) STATE CONTRIBUTION.—For amounts authorized to be appropriated under paragraph (1), the matching requirements in section 1452(e) of the Safe Drinking Water Act (42 U.S.C. 300j–12(e)) shall not apply to any funds provided to the Commonwealth of Puerto Rico under this section.''

DRINKING WATER INFRASTRUCTURE

Pub. L. 114–322, title II, § 2201, Dec. 16, 2016, 130 Stat. 1731, provided that:

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE STATE.—The term 'eligible State' means a State for which the President has declared an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) relating to the public health threats associated with the presence of lead or other contaminants in drinking water provided by a public water system.

''(2) ELIGIBLE SYSTEM.—The term 'eligible system' means a public water system that has been the subject of an emergency declaration referred to in paragraph (1).

''(3) LEAD SERVICE LINE.—The term 'lead service line' means a pipe and its fittings, which are not lead free (as defined under section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g–6)), that connect the drinking water main to the building inlet.

''(4) PUBLIC WATER SYSTEM.—The term 'public water system' has the meaning given such term in section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f(4)).

''(b) STATE REVOLVING LOAN FUND ASSISTANCE.—

''(1) IN GENERAL.—An eligible system shall be—

''(A) considered to be a disadvantaged community under section 1452(d) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)); and

''(B) eligible to receive loans with additional subsidization under section 1452(d)(1) of that Act (42 U.S.C. 300j–12(d)(1)), including forgiveness of principal under that section.

''(2) AUTHORIZATION.—

''(A) IN GENERAL.—Using funds provided pursuant to subsection (d), an eligible State may provide assistance to an eligible system within the eligible State for the purpose of addressing lead or other contaminants in drinking water, including repair and replacement of lead service lines and public water system infrastructure.

''(B) INCLUSION.—Assistance provided under subparagraph (A) may include additional subsidization

under section 1452(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(1)), as described in paragraph (1)(B).

''(C) EXCLUSION.—Assistance provided under subparagraph (A) shall not include assistance for a project that is financed (directly or indirectly), in whole or in part, with proceeds of any obligation issued after the date of enactment of this Act [Dec. 16, 2016]—

''(i) the interest of which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]; or

''(ii) with respect to which credit is allowable under subpart I [former 26 U.S.C. 54A et seq.] or J [former 26 U.S.C. 54AA] of part IV of subchapter A of chapter 1 of such Code.

''(3) INAPPLICABILITY OF LIMITATION.—Section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(2)) shall not apply to—

''(A) any funds provided pursuant to subsection (d) of this section;

''(B) any other assistance provided to an eligible system; or

''(C) any funds required to match the funds provided under subsection (d).

''(c) NONDUPLICATION OF WORK.—An activity carried out pursuant to this section shall not duplicate the work or activity of any other Federal or State department or agency.

''(d) ADDITIONAL DRINKING WATER STATE REVOLVING FUND CAPITALIZATION GRANTS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Administrator [of the Environmental Protection Agency] a total of $100,000,000 to provide additional capitalization grants to eligible States pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), to be available for a period of 18 months beginning on the date on which the funds are made available, for the purposes described in subsection (b)(2), and after the end of the 18-month period, until expended for the purposes described in paragraph (3).

''(2) SUPPLEMENTED INTENDED USE PLANS.—From funds made available under paragraph (1), the Administrator shall obligate to an eligible State such amounts as are necessary to meet the needs identified in a supplemented intended use plan for the purposes described in subsection (b)(2) by not later than 30 days after the date on which the eligible State submits to the Administrator a supplemented intended use plan under section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)) that includes preapplication information regarding projects to be funded using the additional assistance, including, with respect to each such project—

''(A) a description of the project;

''(B) an explanation of the means by which the project will address a situation causing a declared emergency in the eligible State;

''(C) the estimated cost of the project; and

''(D) the projected start date for construction of the project.

''(3) UNOBLIGATED AMOUNTS.—Any amounts made available to the Administrator under paragraph (1) that are unobligated on the date that is 18 months after the date on which the amounts are made available shall be available to provide additional grants to States to capitalize State loan funds as provided under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

''(4) APPLICABILITY.—

''(A) Section 1452(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)(1)) shall not apply to a supplement to an intended use plan under paragraph (2).

''(B) Unless explicitly waived, all requirements under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) shall apply to funding provided under this subsection.

''(e) HEALTH EFFECTS EVALUATION.—

''(1) IN GENERAL.—Pursuant to section 104(i)(1)(E) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(1)(E)), and on receipt of a request of an appropriate State or local health official of an eligible State, the Director of the Agency for Toxic Substances and Disease Registry of the National Center for Environmental Health shall in coordination with other agencies, as appropriate, conduct voluntary surveillance activities to evaluate any adverse health effects on individuals exposed to lead from drinking water in the affected communities.

''(2) CONSULTATIONS.—Pursuant to section 104(i)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(4)), and on receipt of a request of an appropriate State or local health official of an eligible State, the Director of the Agency for Toxic Substances and Disease Registry of the National Center for Environmental Health shall provide consultations regarding health issues described in paragraph (1).

''(f) NO EFFECT ON OTHER PROJECTS.—This section shall not affect the application of any provision of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to any project that does not receive assistance pursuant to this subtitle [subtitle B (§§ 2201–2204) of title II of Pub. L. 114–322, enacting provisions set out as this note and section 300j–27 of this title].''

COMBINING FUND ASSETS FOR ENHANCEMENT OF LENDING CAPACITY

Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2498, provided in part: ''That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182) [set out as a note below] and the accompanying joint explanatory statement of the committee of conference (H. Rept. No. 104–741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, beginning in fiscal year 1999 and thereafter, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act [33 U.S.C. 1381 et seq.], as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act [42 U.S.C. 300f et seq.] and the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] in the same portion as the funds are used as security for the bonds''.

TRANSFER OF FUNDS

Pub. L. 112–74, div. E, title II, Dec. 23, 2011, 125 Stat. 1018, provided in part: ''That for fiscal year 2012 and hereafter, the Administrator may transfer funds provided for tribal set-asides through funds appropriated for the Clean Water State Revolving Funds and for the Drinking Water State Revolving Funds between those accounts in such manner as the Administrator deems appropriate, but not to exceed the transfer limits given to States under section 302(a) of Public Law 104–182 [set out below].''

Pub. L. 109–54, title II, Aug. 2, 2005, 119 Stat. 530, provided in part: ''That for fiscal year 2006 and thereafter, State authority under section 302(a) of Public Law 104–182 [set out as a note below] shall remain in effect''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–447, div. I, title III, Dec. 8, 2004, 118 Stat. 3330.

Pub. L. 108–199, div. G, title III, Jan. 23, 2004, 118 Stat. 406.

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 512.

Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 685.

Pub. L. 104–182, title III, § 302, Aug. 6, 1996, 110 Stat. 1683, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, at any time after the date 1 year after a State establishes a State loan fund pursuant to section 1452 of the Safe Drinking Water Act [42 U.S.C. 300j–12] but prior to fiscal year 2002, a Governor of the State may—

''(1) reserve up to 33 percent of a capitalization grant made pursuant to such section 1452 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

''(2) reserve in any year a dollar amount up to the dollar amount that may be reserved under paragraph (1) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1452 of the Safe Drinking Water Act.

''(b) REPORT.—Not later than 4 years after the date of enactment of this Act [Aug. 6, 1996], the Administrator shall submit a report to the Congress regarding the implementation of this section, together with the Administrator's recommendations, if any, for modifications or improvement.

''(c) STATE MATCH.—Funds reserved pursuant to this section shall not be considered to be a State match of a capitalization grant required pursuant to section 1452 of the Safe Drinking Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).''

§ 300j–13. Source water quality assessment

(a) Source water assessment

(1) Guidance

Within 12 months after August 6, 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 300g–7(b) of this title shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation.

(2) Program requirements

A source water assessment program under this subsection shall—

(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

(B) identify for contaminants regulated under this subchapter for which monitoring is required under this subchapter (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

(3) Approval, implementation, and monitoring relief

A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 300h–7(c) of this title. States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 300g–7(a) of this title shall be eligible for monitoring relief, consistent with section 300g–7(b) of this title, upon completion of the assessment in the delineated source water assessment area or areas concerned.

(4) Timetable

The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 300j–12 of this title (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

(5) Demonstration project

The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

(6) Use of other programs

To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 136a(d) of title 7.

(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required

under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

(E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(7) Public availability

The State shall make the results of the source water assessments conducted under this subsection available to the public.

(b) Approval and disapproval

For provisions relating to program approval and disapproval, see section 300h–7(c) of this title.

(July 1, 1944, ch. 373, title XIV, § 1453, as added Pub. L. 104–182, title I, § 132(a), Aug. 6, 1996, 110 Stat. 1673.)

Editorial Notes

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a)(6)(E), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

§ 300j–14. Source water petition program

(a) Petition program

(1) In general

(A) Establishment

A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State (including a county that is designated by the State to act on behalf of an unincorporated area within that county, with the agreement of that unincorporated area), may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

(B) Funding

Each State may—

(i) use funds set aside pursuant to section 300j–12(k)(1)(A)(iii) of this title by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 300j–13(a) of this title; and

(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B).

(2) Objectives

The objectives of a petition submitted under this subsection shall be to—

(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

(B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.

(3) Contaminants addressed by a petition

A petition submitted to a State under this subsection may address only those contaminants—

(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 300g–1 of this title; or

(B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—

(i) above the maximum contaminant level; or

(ii) that are not reliably and consistently below the maximum contaminant level.

(4) Contents

A petition submitted under this subsection shall, at a minimum—

(A) include a delineation of the source water area in the State that is the subject of the petition;

(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contrib-

uting to the presence of the contaminants) in the source water area delineated under section 300j–13 of this title;

(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

(i) the municipal or local government or other political subdivision of the State (including a county that is designated by the State to act on behalf of an unincorporated area within that county) with jurisdiction over the source water area delineated under section 300j–13 of this title; and

(ii) each person in the source water area delineated under section 300j–13 of this title—

(I) who is likely to be affected by recommendations of the voluntary local partnership; and

(II) whose participation is essential to the success of the partnership;

(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 300j–13 of this title under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

(5) Savings provision

Unless otherwise provided within the agreement, an agreement between an unincorporated area and a county for the county to submit a petition under paragraph (1)(A) on behalf of the unincorporated area shall not authorize the county to act on behalf of the unincorporated area in any matter not within a program under this section.

(b) Approval or disapproval of petitions

(1) In general

After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

(2) Approval

The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include for informational purposes—

(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.)) or section 300j–12 of this title;

(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the program established under section 1455b of title 16;

(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);[1]

(iv) the sole source aquifer protection program established under section 300h–6 of this title;

(v) the community wellhead protection program established under section 300h–7 of this title;

(vi) any pesticide or ground water management plan;

(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

(viii) any abandoned well closure program; and

(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

(3) Disapproval

If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

(A) new information becomes available;

(B) conditions affecting the source water that is the subject of the petition change; or

(C) modifications are made in the type of assistance being requested.

(c) Grants to support State programs

(1) In general

The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph

[1] See References in Text note below.

(2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

(2) Approval

In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d). The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d).

(d) Guidance

(1) In general

Not later than 1 year after August 6, 1996, the Administrator, in consultation with the States, shall publish guidance to assist—

(A) States in the development of a source water quality protection partnership program; and

(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

(2) Contents of the guidance

The guidance shall, at a minimum—

(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a);

(B) recommend procedures for the submission of petitions developed under subsection (a);

(C) recommend criteria for the assessment of source water areas within a State; and

(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a).

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 2020 through 2026. Each State with a plan for a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

(f) Statutory construction

Nothing in this section—

(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

(B) limits any authority of a State, political subdivision, or community water system; or

(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.

(July 1, 1944, ch. 373, title XIV, § 1454, as added Pub. L. 104–182, title I, § 133(a), Aug. 6, 1996, 110 Stat. 1675; amended Pub. L. 115–270, title II, § 2016, Oct. 23, 2018, 132 Stat. 3856; Pub. L. 117–58, div. E, title I, § 50103, Nov. 15, 2021, 135 Stat. 1137.)

Editorial Notes

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(2)(A)(iii), (B)(i), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. Title VI of the Act is classified generally to subchapter VI (§ 1381 et seq.) of chapter 26 of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(2)(B)(iii), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Chapter 2 of subtitle D of title XII of the Act means chapter 2 of subtitle D of title XII of Pub. L. 99–198, as added by Pub. L. 101–624, title XIV, § 1439, Nov. 28, 1990, 104 Stat. 3590, which was classified generally to part II (§ 3838 et seq.) of subchapter IV of chapter 58 of Title 16, Conservation, prior to repeal by Pub. L. 104–127, title III, § 336(h), Apr. 4, 1996, 110 Stat. 1007. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

AMENDMENTS

2021—Subsec. (a)(1)(A). Pub. L. 117–58, § 50103(1)(A), substituted ''political subdivision of a State (including a county that is designated by the State to act on behalf of an unincorporated area within that county, with the agreement of that unincorporated area),'' for ''political subdivision of a State,'' in introductory provisions.

Subsec. (a)(4)(D)(i). Pub. L. 117–58, § 50103(1)(B), inserted ''(including a county that is designated by the State to act on behalf of an unincorporated area within that county)'' after ''of the State''.

Subsec. (a)(5). Pub. L. 117–58, § 50103(1)(C), added par. (5).

Subsec. (e). Pub. L. 117–58, § 50103(2), substituted ''2026'' for ''2021''.

2018—Subsec. (e). Pub. L. 115–270 substituted ''2020 through 2021'' for ''1997 through 2003''.

§ 300j–15. Water conservation plan

(a) Guidelines

Not later than 2 years after August 6, 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate.

(b) Loans or grants

Within 1 year after publication of the guidelines under subsection (a), a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State loan fund under section 300j–12 of this title, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.

(July 1, 1944, ch. 373, title XIV, § 1455, as added Pub. L. 104–182, title I, § 134, Aug. 6, 1996, 110 Stat. 1679.)

§ 300j–16. Assistance to colonias

(a) Definitions

As used in this section:

(1) Border State

The term ''border State'' means Arizona, California, New Mexico, and Texas.

(2) Eligible community

The term ''eligible community'' means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

(b) Grants to alleviate health risks

The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this subchapter.

(c) Use of funds

Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

(d) Cost sharing

The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.

(July 1, 1944, ch. 373, title XIV, § 1456, as added Pub. L. 104–182, title I, § 135, Aug. 6, 1996, 110 Stat. 1679.)

§ 300j–17. Estrogenic substances screening program

In addition to the substances referred to in section 346a(p)(3)(B) of title 21 the Administrator may provide for testing under the screening program authorized by section 346a(p) of title 21, in accordance with the provisions of section 346a(p) of title 21, of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.

(July 1, 1944, ch. 373, title XIV, § 1457, as added Pub. L. 104–182, title I, § 136, Aug. 6, 1996, 110 Stat. 1680.)

§ 300j–18. Drinking water studies

(a) Subpopulations at greater risk

(1) In general

The Administrator shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

(2) Report

Not later than 4 years after August 6, 1996, and periodically thereafter as new and significant information becomes available, the Administrator shall report to the Congress on the results of the studies.

(b) Biological mechanisms

The Administrator shall conduct biomedical studies to—

(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

(c) Studies on harmful substances in drinking water

(1) Development of studies

The Administrator shall, not later than 180 days after August 6, 1996, and after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, conduct the studies described in paragraph (2) to support the development and implementation of the most current version of each of the following:

(A) Enhanced Surface Water Treatment Rule (59 Fed. Reg. 38832 (July 29, 1994)).

(B) Disinfectant and Disinfection Byproducts Rule (59 Fed. Reg. 38668 (July 29, 1994)).

(C) Ground Water Disinfection Rule (availability of draft summary announced at (57 Fed. Reg. 33960; July 31, 1992)).

(2) Contents of studies

The studies required by paragraph (1) shall include, at a minimum, each of the following:

(A) Toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points.

(B) Toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants.

(C) The development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus.

(3) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

(d) Waterborne disease occurrence study

(1) System

The Director of the Centers for Disease Control and Prevention, and the Administrator shall jointly—

(A) within 2 years after August 6, 1996, conduct pilot waterborne disease occurrence studies for at least 5 major United States communities or public water systems; and

(B) within 5 years after August 6, 1996, prepare a report on the findings of the pilot studies, and a national estimate of waterborne disease occurrence.

(2) Training and education

The Director and Administrator shall jointly establish a national health care provider training and public education campaign to inform both the professional health care provider community and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including microbial contaminants. In developing such a campaign, they shall seek comment from interested groups and individuals, including scientists, physicians, State and local governments, environmental groups, public water systems, and vulnerable populations.

(3) Funding

There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this subsection. To the extent funds under this subsection are not fully appropriated, the Administrator may use not more than $2,000,000 of the funds from amounts reserved under section 300j–12(n) of this title for health effects studies for purposes of this subsection. The Administrator may transfer a portion of such funds to the Centers for Disease Control and Prevention for such purposes.

(July 1, 1944, ch. 373, title XIV, § 1458, as added Pub. L. 104–182, title I, § 137, Aug. 6, 1996, 110 Stat. 1680.)

Statutory Notes and Related Subsidiaries

PUBLIC HEALTH ASSESSMENT OF EXPOSURE TO PERCHLORATE

Pub. L. 108–136, div. A, title III, § 323, Nov. 24, 2003, 117 Stat. 1440, provided that:

''(a) EPIDEMIOLOGICAL STUDY OF EXPOSURE TO PERCHLORATE.—The Secretary of Defense shall provide for an independent epidemiological study of exposure to perchlorate in drinking water. The entity conducting the study shall—

''(1) assess the incidence of thyroid disease and measurable effects of thyroid function in relation to exposure to perchlorate;

''(2) ensure that the study is of sufficient scope and scale to permit the making of meaningful conclusions of the measurable public health threat associated with exposure to perchlorate, especially the threat to sensitive subpopulations; and

''(3) examine thyroid function, including measurements of urinary iodine and thyroid hormone levels, in a sufficient number of pregnant women, neonates, and infants exposed to perchlorate in drinking water and match measurements of perchlorate levels in the drinking water of each study participant in order to permit the development of meaningful conclusions on the public health threat to individuals exposed to perchlorate.

''(b) REVIEW OF EFFECTS OF PERCHLORATE ON ENDOCRINE SYSTEM.—The Secretary shall provide for an independent review of the effects of perchlorate on the human endocrine system. The entity conducting the review shall assess—

''(1) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and

''(2) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.

''(c) PERFORMANCE OF STUDY AND REVIEW.—(1) The Secretary shall provide for the performance of the study under subsection (a) through the Centers for Disease Control and Prevention, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary.

''(2) The Secretary shall provide for the performance of the review under subsection (b) through the Centers for Disease Control and Prevention, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.

''(d) REPORTING REQUIREMENTS.—Not later than June 1, 2005, the Federal entities conducting the study and review under this section shall submit to the Secretary reports containing the results of the study and review.''

§ 300j–18a. Annual study on boil water advisories

(a) In general

Not later than 1 year after November 15, 2021, and annually thereafter, the Administrator shall conduct a study on the prevalence of boil water advisories issued in the United States.

(b) Report

(1) In general

The Administrator shall submit to Congress a report describing the results of the most recent study conducted under subsection (a) as part of the annual budget request transmitted to Congress under section 1105(a) of title 31.

(2) Requirement

In the annual report required under paragraph (1), the Administrator shall include a

description of the reasons for which boil water advisories were issued during the year covered by the report.

(Pub. L. 117–58, div. E, title I, § 50115, Nov. 15, 2021, 135 Stat. 1157.)

Editorial Notes

CODIFICATION

Section enacted as part of the Drinking Water and Wastewater Infrastructure Act of 2021 and also as part of the Infrastructure Investment and Jobs Act, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITION OF ADMINISTRATOR

Pub. L. 117–58, div. E, § 50002, Nov. 15, 2021, 135 Stat. 1135, provided that: ''In this division [see Short Title of 2021 Amendment note set out under section 1251 of Title 33, Navigation and Navigable Waters], the term 'Administrator' means the Administrator of the Environmental Protection Agency.''

§ 300j–19. Algal toxin risk assessment and management

(a) Strategic plan

(1) Development

Not later than 90 days after August 7, 2015, the Administrator shall develop and submit to Congress a strategic plan for assessing and managing risks associated with algal toxins in drinking water provided by public water systems. The strategic plan shall include steps and timelines to—

(A) evaluate the risk to human health from drinking water provided by public water systems contaminated with algal toxins;

(B) establish, publish, and update a comprehensive list of algal toxins which the Administrator determines may have an adverse effect on human health when present in drinking water provided by public water systems, taking into account likely exposure levels;

(C) summarize—

(i) the known adverse human health effects of algal toxins included on the list published under subparagraph (B) when present in drinking water provided by public water systems; and

(ii) factors that cause toxin-producing cyanobacteria and algae to proliferate and express toxins;

(D) with respect to algal toxins included on the list published under subparagraph (B), determine whether to—

(i) publish health advisories pursuant to section 300g–1(b)(1)(F) of this title for such algal toxins in drinking water provided by public water systems;

(ii) establish guidance regarding feasible analytical methods to quantify the presence of algal toxins; and

(iii) establish guidance regarding the frequency of monitoring necessary to determine if such algal toxins are present in drinking water provided by public water systems;

(E) recommend feasible treatment options, including procedures, equipment, and source water protection practices, to mitigate any adverse public health effects of algal toxins included on the list published under subparagraph (B); and

(F) enter into cooperative agreements with, and provide technical assistance to, affected States and public water systems, as identified by the Administrator, for the purpose of managing risks associated with algal toxins included on the list published under subparagraph (B).

(2) Updates

The Administrator shall, as appropriate, update and submit to Congress the strategic plan developed under paragraph (1).

(b) Information coordination

In carrying out this section the Administrator shall—

(1) identify gaps in the Agency's understanding of algal toxins, including—

(A) the human health effects of algal toxins included on the list published under subsection (a)(1)(B); and

(B) methods and means of testing and monitoring for the presence of harmful algal toxins in source water of, or drinking water provided by, public water systems;

(2) as appropriate, consult with—

(A) other Federal agencies that—

(i) examine or analyze cyanobacteria or algal toxins; or

(ii) address public health concerns related to harmful algal blooms;

(B) States;

(C) operators of public water systems;

(D) multinational agencies;

(E) foreign governments;

(F) research and academic institutions; and

(G) companies that provide relevant drinking water treatment options; and

(3) assemble and publish information from each Federal agency that has—

(A) examined or analyzed cyanobacteria or algal toxins; or

(B) addressed public health concerns related to harmful algal blooms.

(c) Use of science

The Administrator shall carry out this section in accordance with the requirements described in section 300g–1(b)(3)(A) of this title, as applicable.

(d) Feasible

For purposes of this section, the term ''feasible'' has the meaning given such term in section 300g–1(b)(4)(D) of this title.

(July 1, 1944, ch. 373, title XIV, § 1459, as added Pub. L. 114–45, § 2(a), Aug. 7, 2015, 129 Stat. 473.)

§ 300j–19a. Assistance for small and disadvantaged communities

(a) Definition of underserved community

In this section:

(1) In general

The term ''underserved community'' means a political subdivision of a State that, as de-

termined by the Administrator, has an inadequate system for obtaining drinking water.

(2) Inclusions

The term ''underserved community'' includes a political subdivision of a State that either, as determined by the Administrator—

(A) does not have household drinking water or wastewater services; or

(B) is served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation issued under section 300g–1 of this title, including—

(i) a maximum contaminant level;

(ii) a treatment technique; and

(iii) an action level.

(b) Establishment

(1) In general

The Administrator shall establish a program under which grants are provided to eligible entities for use in carrying out projects and activities the primary purposes of which are to assist public water systems in meeting the requirements of this subchapter.

(2) Inclusions

Projects and activities under paragraph (1) include—

(A) investments necessary for the public water system to comply with the requirements of this subchapter;

(B) assistance that directly and primarily benefits the disadvantaged community on a per-household basis;

(C) programs to provide household water quality testing, including testing for unregulated contaminants;

(D) the purchase of point-of-entry or point-of-use filters and filtration systems that are certified by a third party using science-based test methods for the removal of contaminants of concern;

(E) investments necessary for providing accurate and current information about—

(i) the need for filtration and filter safety, including proper use and maintenance practices; and

(ii) the options for replacing lead service lines (as defined in section 300j–19b(a) of this title) and removing other sources of lead in water; and

(F) entering into contracts, including contracts with nonprofit organizations that have water system technical expertise, to assist—

(i) an eligible entity; or

(ii) the State of an eligible entity, on behalf of that eligible entity.

(c) Eligible entities

Except for purposes of subsections (j) and (m), an eligible entity under this section—

(1) is—

(A) a public water system;

(B) a water system that is located in an area governed by an Indian Tribe; or

(C) a State, on behalf of an underserved community; and

(2) serves a community—

(A) that, under affordability criteria established by the State under section 300j–12(d)(3) of this title, is determined by the State—

(i) to be a disadvantaged community; or

(ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).

(d) Priority

In prioritizing projects and activities for implementation under this section, the Administrator shall give priority to projects and activities that benefit underserved communities.

(e) Local participation

In prioritizing projects and activities for implementation under this section, the Administrator shall consult with and consider the priorities of States, Indian Tribes, and local governments in which communities described in subsection (c)(2) are located.

(f) Technical, managerial, and financial capability

The Administrator may provide assistance to increase the technical, managerial, and financial capability of an eligible entity receiving a grant under this section if the Administrator determines that the eligible entity lacks appropriate technical, managerial, or financial capability and is not receiving such assistance under another Federal program.

(g) Cost sharing

Before providing a grant to an eligible entity under this section, the Administrator shall enter into a binding agreement with the eligible entity to require the eligible entity—

(1) except as provided in subsection (*l*)(5) and subject to subsection (h), to pay not less than 10 percent of the total costs of the project or activity, which may include services, materials, supplies, or other in-kind contributions;

(2) to provide any land, easements, rights-of-way, and relocations necessary to carry out the project or activity; and

(3) to pay 100 percent of any operation and maintenance costs associated with the project or activity.

(h) Waiver

The Administrator may waive, in whole or in part, the requirement under subsection (g)(1) if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

(i) Limitation on use of funds

Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

(j) State response to contaminants

(1) In general

The Administrator may, subject to the terms and conditions of this section, issue a

grant to a requesting State, on behalf of a community described in subsection (c)(2), so the State may assist in, or otherwise carry out, necessary and appropriate activities related to a contaminant—

(A) that is determined by the State to—

(i) be present in, or likely to enter into, a public water system serving, or an underground source of drinking water for, that community; and

(ii) potentially present an imminent and substantial endangerment to the health of persons; and

(B) with respect to which the State determines appropriate authorities have not acted sufficiently to protect the health of such persons.

(2) Recovery of funds

If, subsequent to the Administrator's award of a grant to a State under this subsection, any person or entity (including an eligible entity), is found by the Administrator or a court of competent jurisdiction to have caused or contributed to contamination that was detected as a result of testing conducted, or treated, with funds provided under this subsection, and such contamination violated a law administered by the Administrator, such person or entity shall, upon issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies—

(A) notify the Administrator in writing not later than 30 days after such issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies; and

(B) promptly pay the Administrator an amount equal to the amount of such funds.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out subsections (a) through (j)—

(1) $70,000,000 for fiscal year 2022;

(2) $80,000,000 for fiscal year 2023;

(3) $100,000,000 for fiscal year 2024;

(4) $120,000,000 for fiscal year 2025; and

(5) $140,000,000 for fiscal year 2026.

(*l*) Drinking water infrastructure resilience and sustainability

(1) Resilience and natural hazard

The terms ''resilience'' and ''natural hazard'' have the meaning given such terms in section 300i–2(h) of this title.

(2) In general

The Administrator shall establish and carry out a program, to be known as the Drinking Water System Infrastructure Resilience and Sustainability Program, under which the Administrator, subject to the availability of appropriations for such purpose, shall award grants in each of fiscal years 2022 through 2026 to eligible entities for the purpose of increasing resilience to natural hazards.

(3) Use of funds

An eligible entity may only use grant funds received under this subsection to assist in the planning, design, construction, implementation, operation, or maintenance of a program or project that increases resilience to natural hazards through—

(A) the conservation of water or the enhancement of water use efficiency;

(B) the modification or relocation of existing drinking water system infrastructure made, or that is at risk of being, significantly impaired by natural hazards, including risks to drinking water from flooding;

(C) the design or construction of desalination facilities to serve existing communities;

(D) the enhancement of water supply through the use of watershed management and source water protection;

(E) the enhancement of energy efficiency or the use and generation of renewable energy in the conveyance or treatment of drinking water; or

(F) the development and implementation of measures to increase the resilience of the eligible entity to natural hazards.

(4) Application

To seek a grant under this subsection, the eligible entity shall submit to the Administrator an application that—

(A) includes a proposal of the program or project to be planned, designed, constructed, implemented, operated, or maintained by the eligible entity;

(B) identifies the natural hazard risk to be addressed by the proposed program or project;

(C) provides documentation prepared by a Federal, State, regional, or local government agency of the natural hazard risk to the area where the proposed program or project is to be located;

(D) includes a description of any recent natural hazard events that have affected the applicable water system;

(E) includes a description of how the proposed program or project would improve the performance of the system under the anticipated natural hazards; and

(F) explains how the proposed program or project is expected to enhance the resilience of the system to the anticipated natural hazards.

(5) Federal share for small, rural, and disadvantaged communities

(A) In general

Subject to subparagraph (B), with respect to a program or project that serves an eligible entity and is carried out using a grant under this subsection, the Federal share of the cost of the program or project shall be 90 percent.

(B) Waiver

The Administrator may increase the Federal share under subparagraph (A) to 100 percent if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

(6) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2022 through 2026.

(m) Connection to public water systems

(1) Definitions

In this subsection:

(A) Eligible entity

The term ''eligible entity'' means—

(i) an owner or operator of a public water system that assists or is seeking to assist eligible individuals with connecting the household of the eligible individual to the public water system; or

(ii) a nonprofit entity that assists or is seeking to assist eligible individuals with the costs associated with connecting the household of the eligible individual to a public water system.

(B) Eligible individual

The term ''eligible individual'' has the meaning given the term in section 1383(j) of title 33.

(C) Program

The term ''program'' means the competitive grant program established under paragraph (2).

(2) Establishment

Subject to the availability of appropriations, the Administrator shall establish a competitive grant program for the purpose of improving the general welfare under which the Administrator awards grants to eligible entities to provide funds to assist eligible individuals in covering the costs incurred by the eligible individual in connecting the household of the eligible individual to a public water system.

(3) Application

An eligible entity seeking a grant under the program shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(4) Voluntary connection

Before providing funds to an eligible individual for the costs described in paragraph (2), an eligible entity shall ensure and certify to the Administrator that—

(A) the eligible individual is voluntarily seeking connection to the public water system;

(B) if the eligible entity is not the owner or operator of the public water system to which the eligible individual seeks to connect, the public water system to which the eligible individual seeks to connect has agreed to the connection; and

(C) the connection of the household of the eligible individual to the public water system meets all applicable local and State regulations, requirements, and codes.

(5) Report

Not later than 3 years after November 15, 2021, the Administrator shall submit to Congress a report that describes the implementation of the program, which shall include a description of the use and deployment of amounts made available under the program.

(6) Authorization of appropriations

There is authorized to be appropriated to carry out the program $20,000,000 for each of fiscal years 2022 through 2026.

(n) State competitive grants for underserved communities

(1) In general

In addition to amounts authorized to be appropriated under subsection (k), there is authorized to be appropriated to carry out subsections (a) through (j) $50,000,000 for each of fiscal years 2022 through 2026 in accordance with paragraph (2).

(2) Competitive grants

(A) In general

Notwithstanding any other provision of this section, the Administrator shall distribute amounts made available under paragraph (1) to States through a competitive grant program.

(B) Applications

To seek a grant under the competitive grant program under subparagraph (A), a State shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(C) Criteria

In selecting recipients of grants under the competitive grant program under subparagraph (A), the Administrator shall establish criteria that give priority to States with a high proportion of underserved communities that meet the condition described in subsection (a)(2)(A).

(3) Report

Not later than 2 years after November 15, 2021, the Administrator shall submit to Congress a report that describes the implementation of the competitive grant program under paragraph (2)(A), which shall include a description of the use and deployment of amounts made available under the competitive grant program.

(4) Savings provision

Nothing in this paragraph affects the distribution of amounts made available under subsection (k), including any methods used by the Administrator for distribution of amounts made available under that subsection as in effect on the day before November 15, 2021.

(July 1, 1944, ch. 373, title XIV, § 1459A, as added Pub. L. 114–322, title II, § 2104, Dec. 16, 2016, 130 Stat. 1718; amended Pub. L. 115–270, title II, § 2005, Oct. 23, 2018, 132 Stat. 3842; Pub. L. 117–58, div. E, title I, §§ 50104, 50114, Nov. 15, 2021, 135 Stat. 1137, 1157.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(2)(D) to (F). Pub. L. 117–58, § 50104(a)(1), added subpars. (D) to (F).

Subsec. (c). Pub. L. 117–58, § 50104(a)(2), substituted ''Except for purposes of subsections (j) and (m), an eligible entity'' for ''An eligible entity'' in introductory provisions.

Subsec. (g)(1). Pub. L. 117–58, § 50104(a)(3), substituted ''except as provided in subsection (*l*)(5) and subject to subsection (h), to pay not less than 10 percent'' for ''to pay not less than 45 percent''.

Subsec. (j)(1). Pub. L. 117–58, § 50114(1), substituted ''a community described in subsection (c)(2)'' for ''an underserved community'' in introductory provisions.

Subsec. (j)(1)(A)(i). Pub. L. 117–58, § 50114(2), substituted ''that'' for ''such underserved''.

Subsec. (k). Pub. L. 117–58, § 50104(a)(4), added subsec. (k) and struck out former subsec. (k). Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out subsections (a) through (j) of this section, $60,000,000 for each of fiscal years 2017 through 2021.''

Subsec. (*l*)(2). Pub. L. 117–58, § 50104(a)(5)(A), substituted ''The Administrator shall'' for ''The Administrator may'' and ''fiscal years 2022 through 2026'' for ''fiscal years 2019 and 2020''.

Subsec. (*l*)(5). Pub. L. 117–58, § 50104(a)(5)(C), (D), added par. (5) and redesignated former par. (5) as (6).

Pub. L. 117–58, § 50104(a)(5)(B), substituted ''$25,000,000 for each of fiscal years 2022 through 2026'' for ''$4,000,000 for each of fiscal years 2019 and 2020''.

Subsec. (*l*)(6). Pub. L. 117–58, § 50104(a)(5)(C), redesignated par. (5) as (6).

Subsec. (m). Pub. L. 117–58, § 50104(b), added subsec. (m).

Subsec. (n). Pub. L. 117–58, § 50104(c), added subsec. (n).

2018—Subsec. (j). Pub. L. 115–270, § 2005(3), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 115–270, § 2005(1), (2), redesignated subsec. (j) as (k) and substituted ''subsections (a) through (j) of this section'' for ''this section''.

Subsec. (*l*). Pub. L. 115–270, § 2005(4), added subsec. (*l*).

Statutory Notes and Related Subsidiaries

RURAL AND URBAN LOW-INCOME COMMUNITY WATER ASSISTANCE; NEEDS ASSESSMENT; PILOT PROGRAM

Pub. L. 117–58, div. E, title I, §§ 50108, 50109, Nov. 15, 2021, 135 Stat. 1146, 1148, provided that:

''SEC. 50108. NEEDS ASSESSMENT FOR NATIONWIDE RURAL AND URBAN LOW-INCOME COMMUNITY WATER ASSISTANCE.

''(a) DEFINITIONS.—In this section and section 50109:

''(1) COMMUNITY WATER SYSTEM.—The term 'community water system' has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

''(2) LARGE WATER SERVICE PROVIDER.—The term 'large water service provider' means a community water system, treatment works, or municipal separate storm sewer system that serves more than 100,000 people.

''(3) MEDIUM WATER SERVICE PROVIDER.—The term 'medium water service provider' means a community water system, treatment works, or municipal separate storm sewer system that serves more than 10,000 people and not more than 100,000 people.

''(4) NEED.—The term 'need', with respect to a qualifying household, means the expenditure of a disproportionate amount of household income on access to public drinking water or wastewater services.

''(5) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household that—

''(A) includes an individual who is—

''(i) the holder of an account for drinking water or wastewater service that is provided to that household by a large water service provider, a medium water service provider, or a rural water service provider; or

''(ii) separately billed by a landlord that holds an account with a large water service provider, a medium water service provider, or a rural water service provider for the cost of drinking water or wastewater service provided to that household by the respective large water service provider, medium water service provider, or rural water service provider; and

''(B) is determined—

''(i) by a large water service provider, a medium water service provider, or a rural water service provider to be eligible for assistance through a low-income ratepayer assistance program;

''(ii) by the Governor of the State in which the household is located to be low-income, based on the affordability criteria established by the State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3));

''(iii) by the Administrator [of the Environmental Protection Agency] to experience drinking water and wastewater service costs that exceed the metrics of affordability established in the most recent guidance of the Administrator entitled 'Financial Capability Assessment Guidance'; or

''(iv) in the case of a household serviced by a rural water service provider, by the State in which the household is located to have an annual income that does not exceed the greater of—

''(I) an amount equal to 150 percent of the poverty level of that State; and

''(II) an amount equal to 60 percent of the State median income for that State.

''(6) RURAL WATER SERVICE PROVIDER.—The term 'rural water service provider' means a community water system, treatment works, or municipal separate storm sewer system that serves not more than 10,000 people.

''(7) TREATMENT WORKS.—The term 'treatment works' has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

''(b) STUDY; REPORT.—

''(1) IN GENERAL.—The Administrator shall conduct, and submit to Congress a report describing the results of, a study that examines the prevalence throughout the United States of municipalities, public entities, or Tribal governments that—

''(A) are serviced by rural water service providers, medium water service providers, or large water service providers that service a disproportionate percentage, as determined by the Administrator, of qualifying households with need; or

''(B) as determined by the Administrator, have taken on an unsustainable level of debt due to customer nonpayment for the services provided by a large water service provider, a medium water service provider, or a rural water service provider.

''(2) AFFORDABILITY INCLUSIONS.—The report under paragraph (1) shall include—

''(A) a definition of the term 'affordable access to water services';

''(B) a description of the criteria used in defining 'affordable access to water services' under subparagraph (A);

''(C) a definition of the term 'lack of affordable access to water services';

''(D) a description of the methodology and criteria used in defining 'lack of affordable access to water services' under subparagraph (C);

''(E) a determination of the prevalence of a lack of affordable access to water services, as defined under subparagraph (C);

''(F) the methodology and criteria used to determine the prevalence of a lack of affordable access to water services under subparagraph (E);

''(G) any additional information with respect to the affordable access to water services, as defined under subparagraph (A), provided by rural water service providers, medium water service providers, and large water service providers;

''(H) with respect to the development of the report, a consultation with all relevant stakeholders, including rural advocacy associations;

''(I) recommendations of the Administrator regarding the best methods to reduce the prevalence of a lack of affordable access to water services, as defined under subparagraph (C); and

''(J) a description of the cost of each method described in subparagraph (I).

''(3) AGREEMENTS.—The Administrator may enter into an agreement with another Federal agency to carry out the study under paragraph (1).

''SEC. 50109. RURAL AND LOW-INCOME WATER ASSISTANCE PILOT PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a municipality, Tribal government, or other entity that—

''(i) owns or operates a community water system, treatment works, or municipal separate storm sewer system; or

''(ii) as determined by the Administrator [of the Environmental Protection Agency], has taken on an unsustainable level of debt due to customer nonpayment for the services provided by a community water system, treatment works, or municipal separate storm sewer system; and

''(B) a State exercising primary enforcement responsibility over a rural water service provider under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as applicable.

''(2) PILOT PROGRAM.—The term 'pilot program' means the pilot program established by the Administrator under subsection (b)(1).

''(3) WATER SERVICES NEEDS ASSESSMENT.—The term 'water services needs assessment' means the report required under section 50108(b)(1).

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 15, 2021], the Administrator shall establish a pilot program to award grants to eligible entities to develop and implement programs to assist qualifying households with need in maintaining access to drinking water and wastewater treatment.

''(2) REQUIREMENT.—In establishing the pilot program, the Administrator shall ensure that data from the water services needs assessment directly contributes to the structure of the pilot program by informing the types of assistance and criteria used for priority consideration with the demonstrated need from the study conducted under section 50108(b)(1) and the water services needs assessment.

''(3) USE OF FUNDS LIMITATIONS.—A grant under the pilot program—

''(A) shall not be used to replace funds for any existing similar program; but

''(B) may be used to supplement or enhance an existing program, including a program that receives assistance from other Federal grants.

''(4) TERM.—The term of a grant awarded under the pilot program shall be subject to the availability of appropriations.

''(5) TYPES OF ASSISTANCE.—In establishing the pilot program, the Administrator may include provisions for—

''(A) direct financial assistance;

''(B) a lifeline rate;

''(C) bill discounting;

''(D) special hardship provisions;

''(E) a percentage-of-income payment plan; or

''(F) debt relief for the eligible entity or the community water system owned by the eligible entity for debt that is due to customer nonpayment for the services provided by the eligible entity or the community water system that is determined by the Administrator to be in the interest of public health.

''(6) REQUIREMENT.—The Administrator shall award not more than 40 grants under the pilot program, of which—

''(A) not more than 8 shall be to eligible entities that own, operate, or exercise primary enforcement responsibility over a rural water service provider under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as applicable;

''(B) not more than 8 shall be to eligible entities that own or operate a medium water service provider;

''(C) not more than 8 shall be to eligible entities that own or operate a large water service provider that serves not more than 500,000 people;

''(D) not more than 8 shall be to eligible entities that own or operate a large water service provider that serves more than 500,000 people; and

''(E) not more than 8 shall be to eligible entities that own or operate a community water system, treatment works, or municipal separate storm sewer system that services a disadvantaged community (consistent with the affordability criteria established by the applicable State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)) or section 603(i)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1383(i)(2)), as applicable).

''(7) CRITERIA.—In addition to any priority criteria established by the Administrator in response to the findings in the water services needs assessment, in awarding grants under the pilot program, the Administrator shall give priority consideration to eligible entities that—

''(A) serve a disproportionate percentage, as determined by the Administrator, of qualifying households with need, as identified in the water services needs assessment;

''(B) are subject to State or Federal enforcement actions relating to compliance with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

''(C) maintain or participate in an existing community assistance program with objectives similar to the objectives of the pilot program, as determined by the Administrator.

''(8) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—In addition to any other applicable Federal or agency-specific grant reporting requirements, as a condition of receiving a grant under the pilot program, an eligible entity (or a State, on behalf of an eligible entity) shall submit to the Administrator an annual report that summarizes, in a manner determined by the Administrator, the use of grant funds by the eligible entity, including—

''(i) key features of the assistance provided by the eligible entity;

''(ii) sources of funding used to supplement Federal funds; and

''(iii) eligibility criteria.

''(B) PUBLICATION.—The Administrator shall publish each report submitted under subparagraph (A).

''(c) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to each eligible entity, and each State, on behalf of an eligible entity, that receives a grant under the pilot program to support implementation of the program.

''(d) REPORT.—Not later than 2 years after the date on which grant funds are first disbursed to an eligible entity (or a State, on behalf of an eligible entity) under the program, and every year thereafter for the duration of the terms of the grants, the Administrator shall submit to Congress a report on the results of the pilot program.''

§ 300j–19b. Reducing lead in drinking water

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means—

(A) a community water system;

(B) a water system located in an area governed by an Indian Tribe;

(C) a nontransient noncommunity water system;

(D) a qualified nonprofit organization with experience in lead reduction, as determined by the Administrator; and

(E) a municipality or State, interstate, or intermunicipal agency.

(2) Lead reduction project

(A) In general

The term ''lead reduction project'' means a project or activity the primary purpose of which is to reduce the concentration of lead in water for human consumption by—

(i) replacement of lead service lines;

(ii) testing, planning, or other relevant activities, as determined by the Administrator, to identify and address conditions (including corrosion control) that contribute to increased concentration of lead in water for human consumption; and

(iii) providing assistance to eligible entities to replace lead service lines, with priority for disadvantaged communities based on the affordability criteria established by the applicable State under section 300j–12(d)(3) of this title, low-income homeowners, and landlords or property owners providing housing to low-income renters.

(B) Limitation

The term ''lead reduction project'' does not include a partial lead service line replacement if, at the conclusion of the service line replacement, drinking water is delivered to a household through a publicly or privately owned portion of a lead service line.

(3) Low-income

The term ''low-income'', with respect to assistance under this section, has such meaning as may be given the term by the Governor of the State in which the eligible entity is located, based upon the affordability criteria established by the State under section 300j–12(d)(3) of this title.

(4) Lead service line

The term ''lead service line'' means a pipe and its fittings, which are not lead free (as defined in section 300g–6(d) of this title), that connect the drinking water main to the building inlet.

(5) Nontransient noncommunity water system

The term ''nontransient noncommunity water system'' means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

(b) Grant program

(1) Establishment

The Administrator shall establish a grant program to provide assistance to eligible entities for lead reduction projects in the United States.

(2) Precondition

As a condition of receipt of assistance under this section, an eligible entity shall take steps to identify—

(A) the source of lead in the public water system that is subject to human consumption; and

(B) the means by which the proposed lead reduction project would meaningfully reduce the concentration of lead in water provided for human consumption by the applicable public water system.

(3) Priority application

In providing grants under this subsection, the Administrator shall give priority to an eligible entity that—

(A) the Administrator determines, based on affordability criteria established by the State under section 300j–12(d)(3) of this title, to be a disadvantaged community; and

(B) proposes to—

(i) carry out a lead reduction project at a public water system or nontransient noncommunity water system that has exceeded the lead action level established by the Administrator under section 300g–1 of this title at any time during the 3-year period preceding the date of submission of the application of the eligible entity; or

(ii) address lead levels in water for human consumption at a school, daycare, or other facility that primarily serves children or other vulnerable human subpopulation described in section 300j–18(a)(1) of this title.

(4) Cost sharing

(A) In general

Subject to subparagraph (B), the non-Federal share of the total cost of a project funded by a grant under this subsection shall be not less than 20 percent.

(B) Waiver

The Administrator may reduce or eliminate the non-Federal share under subparagraph (A) for reasons of affordability, as the Administrator determines to be appropriate.

(5) Low-income assistance

(A) In general

Subject to subparagraph (B), an eligible entity may use a grant provided under this subsection to replace lead service lines, with first priority given to assisting disadvantaged communities based on the affordability criteria established by the applicable State under section 300j–12(d)(3) of this title, low-income homeowners, and landlords or property owners providing housing to low-income renters.

(B) Limitation

The amount of a grant provided to a low-income homeowner under this paragraph shall not exceed the standard cost of replacement of the privately owned portion of the lead service lines.

(6) Special consideration for lead service line replacement

In carrying out lead service line replacement using a grant under this subsection, an eligible entity—

(A) shall notify customers of the replacement of the lead service line;

(B) may, in the case of a homeowner who is not low-income, offer to replace the privately owned portion of the lead service line at the cost of replacement for that homeowner's property;

(C) shall, in the case of a low-income homeowner, and may, for other homeowners, offer to replace the privately owned portion

of the lead service line at no cost to the homeowner;

(D) shall notify each customer that a planned replacement of any publicly owned portion of a lead service line that is funded by a grant made under this subsection will not be carried out unless the customer agrees to the simultaneous replacement of the privately owned portion of the lead service line;

(E) shall demonstrate that the eligible entity has considered feasible alternatives for reducing the concentration of lead in drinking water, such as corrosion control; and

(F) shall notify the State of any planned replacement of lead service lines under this program and coordinate, where practicable, with other relevant infrastructure projects.

(c) Limitation on use of funds

Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

(d) Lead inventorying utilization grant pilot program

(1) Definitions

In this subsection:

(A) Eligible entity

The term ''eligible entity'' means a municipality that is served by a community water system or a nontransient noncommunity water system in which not less than 30 percent of the service lines are known, or suspected, to contain lead, based on available data, information, or resources, including existing lead inventorying.

(B) Pilot program

The term ''pilot program'' means the pilot program established under paragraph (2).

(2) Establishment

The Administrator shall establish a pilot program under which the Administrator shall provide grants to eligible entities to carry out lead reduction projects that are demonstrated to exist or are suspected to exist, based on available data, information, or resources, including existing lead inventorying of those eligible entities.

(3) Selection

(A) Application

To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(B) Prioritization

In selecting recipients under the pilot program, the Administrator shall give priority to—

(i) an eligible entity that meets the affordability criteria of the applicable State established under section 300j–12(d)(3) of this title; and

(ii) an eligible entity that is located in an area other than a State that has established affordability criteria under section 300j–12(d)(3) of this title.

(4) Report

Not later 2 years after the Administrator first awards a grant under the pilot program, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing—

(A) the recipients of grants under the pilot program;

(B) the existing lead inventorying that was available to recipients of grants under the pilot program; and

(C) how useful and accurate the lead inventorying described in subparagraph (B) was in locating lead service lines of the eligible entity.

(5) Authorization of appropriations

There is authorized to be appropriated to carry out the pilot program $10,000,000, to remain available until expended.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section (except for subsection (d)) $100,000,000 for each of fiscal years 2022 through 2026.

(f) Savings clause

Nothing in this section affects whether a public water system is responsible for the replacement of a lead service line that is—

(1) subject to the control of the public water system; and

(2) located on private property.

(July 1, 1944, ch. 373, title XIV, § 1459B, as added Pub. L. 114–322, title II, § 2105, Dec. 16, 2016, 130 Stat. 1720; amended Pub. L. 117–58, div. E, title I, § 50105, Nov. 15, 2021, 135 Stat. 1140.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(1)(D). Pub. L. 117–58, § 50105(1)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: ''a qualified nonprofit organization, as determined by the Administrator, servicing a public water system; and''.

Subsec. (a)(2)(A)(i). Pub. L. 117–58, § 50105(1)(B)(i), struck out ''publicly owned'' before ''lead''.

Subsec. (a)(2)(A)(iii). Pub. L. 117–58, § 50105(1)(B)(ii), added cl. (iii) and struck out former cl. (iii) which read as follows: ''providing assistance to low-income homeowners to replace lead service lines.''

Subsec. (a)(3). Pub. L. 117–58, § 50105(1)(C), struck out ''an individual provided'' before ''assistance''.

Subsec. (b)(5)(A). Pub. L. 117–58, § 50105(2)(A)(i), substituted ''to replace lead service lines, with first priority given to assisting disadvantaged communities based on the affordability criteria established by the applicable State under section 300j–12(d)(3) of this title, low-income homeowners, and landlords or property owners providing housing to low-income renters.'' for ''to provide assistance to low-income homeowners to replace the lead service lines of such homeowners.''

Subsec. (b)(5)(B). Pub. L. 117–58, § 50105(2)(A)(ii), substituted ''lines'' for ''line''.

Subsec. (b)(6)(A). Pub. L. 117–58, § 50105(2)(B)(i), struck out ''any publicly owned portion of'' before ''the lead''.

Subsec. (b)(6)(C). Pub. L. 117–58, § 50105(2)(B)(ii), substituted ''shall, in the case of a low-income homeowner,

and may, for other homeowners, offer to replace the privately owned portion of the lead service line at no cost to the homeowner;'' for ''may, in the case of a low-income homeowner, offer to replace the privately owned portion of the lead service line at a cost that is equal to the difference between—

''(i) the cost of replacement; and

''(ii) the amount of assistance available to the low-income homeowner under paragraph (5);''.

Subsec. (b)(6)(E). Pub. L. 117–58, § 50105(2)(B)(iv), substituted ''feasible alternatives for reducing the concentration of lead in drinking water, such as corrosion control; and'' for ''other options for reducing the concentration of lead in its drinking water, including an evaluation of options for corrosion control.''.

Subsec. (b)(6)(F). Pub. L. 117–58, § 50105(2)(B)(iii), (v), added subpar. (F).

Subsec. (d). Pub. L. 117–58, § 50105(4), (5), added subsec. (d) and redesignated former subsec. (d) as (e).

Pub. L. 117–58, § 50105(3), substituted ''this section (except for subsection (d)) $100,000,000 for each of fiscal years 2022 through 2026'' for ''this section $60,000,000 for each of fiscal years 2017 through 2021''.

Subsecs. (e), (f). Pub. L. 117–58, § 50105(4), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

§ 300j–19c. Study on intractable water systems

(a) Definition of intractable water system

In this section, the term ''intractable water system'' means a community water system or a noncommunity water system—

(1) that serves fewer than 1,000 individuals;

(2) the owner or operator of which—

(A) is unable or unwilling to provide safe and adequate service to those individuals;

(B) has abandoned or effectively abandoned the community water system or noncommunity water system, as applicable;

(C) has defaulted on a financial obligation relating to the community water system or noncommunity water system, as applicable; or

(D) fails to maintain the facilities of the community water system or noncommunity water system, as applicable, in a manner so as to prevent a potential public health hazard; and

(3) that is, as of October 23, 2018—

(A) in significant noncompliance with this chapter or any regulation promulgated pursuant to this chapter; or

(B) listed as having a history of significant noncompliance with this subchapter pursuant to section 300g–9(b)(1) of this title.

(b) Study required

(1) In general

Not later than 2 years after October 23, 2018, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, shall complete a study that—

(A) identifies intractable water systems; and

(B) describes barriers to delivery of potable water to individuals served by an intractable water system.

(2) Report to Congress

Not later than 2 years after October 23, 2018, the Administrator shall submit to Congress a report describing findings and recommendations based on the study under this subsection.

(July 1, 1944, ch. 373, title XIV, § 1459C, as added Pub. L. 115–270, title II, § 2003, Oct. 23, 2018, 132 Stat. 3841.)

§ 300j–19d. Review of technologies

(a) Review

The Administrator, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) existing and potential methods, means, equipment, and technologies (including review of cost, availability, and efficacy of such methods, means, equipment, and technologies) that—

(1) ensure the physical integrity of community water systems;

(2) prevent, detect, and respond to any contaminant for which a national primary drinking water regulation has been promulgated in community water systems and source water for community water systems;

(3) allow for use of alternate drinking water supplies from nontraditional sources; and

(4) facilitate source water assessment and protection.

(b) Inclusions

The review under subsection (a) shall include review of methods, means, equipment, and technologies—

(1) that are used for corrosion protection, metering, leak detection, or protection against water loss;

(2) that are intelligent systems, including hardware, software, or other technology, used to assist in protection and detection described in paragraph (1);

(3) that are point-of-use devices or point-of-entry devices;

(4) that are physical or electronic systems that monitor, or assist in monitoring, contaminants in drinking water in real-time; and

(5) that allow for the use of nontraditional sources for drinking water, including physical separation and chemical and biological transformation technologies.

(c) Availability

The Administrator shall make the results of the review under subsection (a) available to the public.

(d) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this section $10,000,000 for fiscal year 2019, which shall remain available until expended.

(July 1, 1944, ch. 373, title XIV, § 1459D, as added Pub. L. 115–270, title II, § 2017, Oct. 23, 2018, 132 Stat. 3856.)

§ 300j–19e. Water infrastructure and workforce investment

(a) Definition of public works department or agency

In this section, the term ''public works department or agency'' means a political subdivision of a local, county, or regional government that

designs, builds, operates, and maintains water infrastructure, sewage and refuse disposal systems, and other public water systems and facilities.

(b) Sense of Congress

It is the sense of Congress that—

(1) water and wastewater utilities provide a unique opportunity for access to stable, high-quality careers;

(2) as water and wastewater utilities make critical investments in infrastructure, water and wastewater utilities can invest in the development of local workers and local small businesses to strengthen communities and ensure a strong pipeline of skilled and diverse workers for today and tomorrow; and

(3) to further the goal of ensuring a strong pipeline of skilled and diverse workers in the water and wastewater utilities sector, Congress urges—

(A) increased collaboration among Federal, State, Tribal, and local governments; and

(B) institutions of higher education, apprentice programs, high schools, and other community-based organizations and public works departments or agencies to align water and wastewater utility workforce recruitment efforts, training programs, retention efforts, and community resources with water and wastewater utilities—

(i) to accelerate career pipelines;

(ii) to ensure the sustainability of the water and wastewater utility workforce; and

(iii) to provide access to workforce opportunities.

(c) Innovative water infrastructure workforce development program

(1) Grants authorized

The Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator''), in consultation with the Secretary of Agriculture, shall establish a competitive grant program to assist the development and utilization of innovative activities relating to workforce development and career opportunities in the water utility sector, which may include—

(A) expanding the use and availability of activities and resources that relate to the recruitment, including the promotion of diversity within that recruitment, of individuals to careers in the water and wastewater utility sector;

(B) expanding the availability of training opportunities for—

(i) individuals entering into the water and wastewater utility sector; and

(ii) individuals seeking to advance careers within the water and wastewater utility sector; and

(C) expanding the use and availability of activities and strategies, including the development of innovative activities and strategies, that relate to the maintenance and retention of a sustainable workforce in the water and wastewater utility sector.

(2) Selection of grant recipients

In awarding grants under paragraph (1), the Administrator shall, to the extent practicable, select nonprofit professional or service organizations, labor organizations, community colleges, institutions of higher education, or other training and educational institutions, or public works departments and agencies—

(A) that have qualifications and experience—

(i) in the development of educational or recruitment materials and activities, including those materials and activities that specifically promote diversity within recruitment, for the water and wastewater utility workforce;

(ii) in the development of training programs and curricula relevant to workforce needs of water utilities; or

(iii) developing activities and strategies that relate to the maintenance and retention of a sustainable workforce in the water and wastewater utility sector; and

(B) that will address the human resources and workforce needs of water utilities that—

(i) are geographically diverse;

(ii) are of varying sizes; and

(iii) serve urban, suburban, and rural populations.

(3) Use of funds

Grants awarded under paragraph (1) may be used for activities such as—

(A) targeted internship, apprenticeship, pre-apprenticeship, and post-secondary bridge programs for skilled water utility trades that provide—

(i) on-the-job training;

(ii) skills development;

(iii) test preparation for skilled trade apprenticeships;

(iv) advance training in the water utility sector relating to construction, utility operations, treatment and distribution, green infrastructure, customer service, maintenance, and engineering; or

(v) other support services to facilitate post-secondary success;

(B) education programs designed for elementary, secondary, and higher education students that—

(i) inform people about the role of water and wastewater utilities in their communities;

(ii) increase the awareness of career opportunities and exposure of students to water utility careers through various work-based learning opportunities inside and outside the classroom; and

(iii) connect students to career pathways related to water utilities;

(C) regional industry and workforce development collaborations to address water utility employment needs and coordinate candidate development, particularly in areas of high unemployment or for water utilities with a high proportion of retirement eligible employees;

(D) integrated learning laboratories in secondary educational institutions that provide students with—

(i) hands-on, contextualized learning opportunities;

(ii) dual enrollment credit for post-secondary education and training or certification programs; and

(iii) direct connection to industry employers; and

(E) leadership development, occupational training, mentoring, or cross-training programs that are designed to retain incumbent water and wastewater utility workforce workers by ensuring that those workers are prepared for higher level supervisory or management-level positions.

(4) Working group; report

(A) In general

The Administrator shall establish and coordinate a Federal interagency working group to address recruitment, training, and retention challenges in the water and wastewater utility workforce, which shall include representatives from—

(i) the Department of Education;

(ii) the Department of Labor;

(iii) the Department of Agriculture;

(iv) the Department of Veterans Affairs; and

(v) other Federal agencies, as determined to be appropriate by the Administrator.

(B) Report

Not later than 2 years after November 15, 2021, the Administrator, in coordination with the working group established under subparagraph (A), shall submit to Congress a report describing potential solutions to recruitment, training, and retention challenges in the water and wastewater utility workforce.

(C) Consultation

In carrying out the duties of the working group established under subparagraph (A), the working group shall consult with State operator certification programs.

(5) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2022 through 2026.

(Pub. L. 115–270, title IV, § 4304, Oct. 23, 2018, 132 Stat. 3882; Pub. L. 117–58, div. E, title II, § 50211, Nov. 15, 2021, 135 Stat. 1170.)

Editorial Notes

CODIFICATION

Section enacted as part of the America's Water Infrastructure Act of 2018, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, § 50211(4), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (a)(3)(A). Pub. L. 117–58, § 50211(1)(A), inserted ''Tribal,'' after ''State,''.

Subsec. (a)(3)(B). Pub. L. 117–58, § 50211(1)(B), substituted ''community-based organizations and public works departments or agencies to align water and wastewater utility workforce recruitment efforts, training programs, retention efforts, and community resources with water and wastewater utilities—'' and cls. (i) to (iii) for ''community-based organizations to align workforce training programs and community resources with water and wastewater utilities to accelerate career pipelines and provide access to workforce opportunities.''

Subsec. (b). Pub. L. 117–58, § 50211(3), redesignated subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (b)(1). Pub. L. 117–58, § 50211(2)(A), added subpars. (A) to (C), struck out former subpar. (A) designation before ''to assist'', substituted ''program'' for ''program—'' and '', which may include—'' for ''; and'' in introductory provsions, and struck out former subpar. (B) which read as follows: ''to expand public awareness about water utilities and connect individuals to careers in the water utility sector.''

Subsec. (b)(2). Pub. L. 117–58, § 50211(2)(B)(i), substituted ''institutions, or public works departments and agencies—'' for ''institutions—'' in introductory provisions.

Subsec. (b)(2)(A). Pub. L. 117–58, § 50211(2)(B)(ii), added cls. (i) and (iii), redesignated former cl. (i) as (ii), and struck out former cls. (ii) and (iii) which read as follows:

''(ii) working in cooperation with water utilities; or

''(iii) developing public education materials appropriate for communicating with groups of different ages and educational backgrounds; and''.

Subsec. (b)(3)(D)(ii). Pub. L. 117–58, § 50211(2)(C)(i), inserted ''or certification'' after ''training''.

Subsec. (b)(3)(E). Pub. L. 117–58, § 50211(2)(C)(ii), substituted ''are designed to retain incumbent water and wastewater utility workforce workers by ensuring that those workers'' for ''ensure that incumbent water and waste water utilities workers''.

Subsec. (b)(4), (5). Pub. L. 117–58, § 50211(2)(D), added pars. (4) and (5) and struck out former par. (4). Prior to amendment, text of par. (4) read as follows: ''There is authorized to be appropriated to carry out this subsection $1,000,000 for each of fiscal years 2019 and 2020.''

Subsec. (c). Pub. L. 117–58, § 50211(3), redesignated subsec. (b) as (c).

§ 300j–19f. Operational sustainability of small public water systems

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means—

(A) a State;

(B) a unit of local government;

(C) a public corporation established by a unit of local government to provide water service;

(D) a nonprofit corporation, public trust, or cooperative association that owns or operates a public water system;

(E) an Indian Tribe that owns or operates a public water system;

(F) a nonprofit organization that provides technical assistance to public water systems; and

(G) a Tribal consortium.

(2) Operational sustainability

The term ''operational sustainability'' means the ability to improve the operation of a small system through the identification and prevention of potable water loss due to leaks, breaks, and other metering or infrastructure failures.

(3) Program

The term ''program'' means the grant program established under subsection (b).

(4) Small system

The term ''small system'', for the purposes of this section, means a public water system that—

(A) serves fewer than 10,000 people; and
(B) is owned or operated by—
(i) a unit of local government;
(ii) a public corporation;
(iii) a nonprofit corporation;
(iv) a public trust;
(v) a cooperative association; or
(vi) an Indian Tribe.

(b) Establishment

Subject to the availability of appropriations, the Administrator shall establish a program to award grants to eligible entities for the purpose of improving the operational sustainability of 1 or more small systems.

(c) Applications

To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

(1) a proposal of the project to be carried out using grant funds under the program;

(2) documentation provided by the eligible entity describing the deficiencies or suspected deficiencies in operational sustainability of 1 or more small systems that are to be addressed through the proposed project;

(3) a description of how the proposed project will improve the operational sustainability of 1 or more small systems;

(4) a description of how the improvements described in paragraph (3) will be maintained beyond the life of the proposed project, including a plan to maintain and update any asset data collected as a result of the proposed project; and

(5) any additional information the Administrator may require.

(d) Additional required information

Before the award of funds for a grant under the program to a grant recipient, the grant recipient shall submit to the Administrator—

(1) if the grant recipient is located in a State that has established a State drinking water treatment revolving loan fund under section 300j–12 of this title, a copy of a written agreement between the grant recipient and the State in which the grant recipient agrees to provide a copy of any data collected under the proposed project to the State agency administering the State drinking water treatment revolving loan fund (or a designee); or

(2) if the grant recipient is located in an area other than a State that has established a State drinking water treatment revolving loan fund under section 300j–12 of this title, a copy of a written agreement between the grant recipient and the Administrator in which the eligible entity agrees to provide a copy of any data collected under the proposed project to the Administrator (or a designee).

(e) Use of funds

An eligible entity that receives a grant under the program shall use the grant funds to carry out projects that improve the operational sustainability of 1 or more small systems through—

(1) the development of a detailed asset inventory, which may include drinking water sources, wells, storage, valves, treatment systems, distribution lines, hydrants, pumps, controls, and other essential infrastructure;

(2) the development of an infrastructure asset map, including a map that uses technology such as—
(A) geographic information system software; and
(B) global positioning system software;

(3) the deployment of leak detection technology;

(4) the deployment of metering technology;

(5) training in asset management strategies, techniques, and technologies for appropriate staff employed by—
(A) the eligible entity; or
(B) the small systems for which the grant was received;

(6) the deployment of strategies, techniques, and technologies to enhance the operational sustainability and effective use of water resources through water reuse; and

(7) the development or deployment of other strategies, techniques, or technologies that the Administrator may determine to be appropriate under the program.

(f) Cost share

(1) In general

Subject to paragraph (2), the Federal share of the cost of a project carried out using a grant under the program shall be 90 percent of the total cost of the project.

(2) Waiver

The Administrator may increase the Federal share under paragraph (1) to 100 percent.

(g) Report

Not later than 2 years after November 15, 2021, the Administrator shall submit to Congress a report that describes the implementation of the program, which shall include a description of the use and deployment of amounts made available under the program.

(h) Authorization of appropriations

There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.

(July 1, 1944, ch. 373, title XIV, § 1459E, as added Pub. L. 117–58, div. E, title I, § 50106, Nov. 15, 2021, 135 Stat. 1142.)

§ 300j–19g. Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means a public water system that serves a community with a population of 10,000 or more.

(2) Natural hazard; resilience

The terms ''resilience'' and ''natural hazard'' have the meanings given those terms in section 300i–2(h) of this title.

(3) Resilience and sustainability program

The term ''resilience and sustainability program'' means the Midsize and Large Drinking

Water System Infrastructure Resilience and Sustainability Program established under subsection (b).

(b) Establishment

The Administrator shall establish and carry out a program, to be known as the ''Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program'', under which the Administrator, subject to the availability of appropriations for the resilience and sustainability program, shall award grants to eligible entities for the purpose of—

(1) increasing resilience to natural hazards and extreme weather events; and

(2) reducing cybersecurity vulnerabilities.

(c) Use of funds

An eligible entity may only use grant funds received under the resilience and sustainability program to assist in the planning, design, construction, implementation, operation, or maintenance of a program or project that increases resilience to natural hazards and extreme weather events, or reduces cybersecurity vulnerabilities, through—

(1) the conservation of water or the enhancement of water-use efficiency;

(2) the modification or relocation of existing drinking water system infrastructure made, or that is at risk of being, significantly impaired by natural hazards or extreme weather events, including risks to drinking water from flooding;

(3) the design or construction of new or modified desalination facilities to serve existing communities;

(4) the enhancement of water supply through the use of watershed management and source water protection;

(5) the enhancement of energy efficiency or the use and generation of renewable energy in the conveyance or treatment of drinking water;

(6) the development and implementation of measures—

(A) to increase the resilience of the eligible entity to natural hazards and extreme weather events; or

(B) to reduce cybersecurity vulnerabilities;

(7) the conservation of water or the enhancement of a water supply through the implementation of water reuse measures; or

(8) the formation of regional water partnerships to collaboratively address documented water shortages.

(d) Application

To seek a grant under the resilience and sustainability program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

(1) a proposal of the program or project to be planned, designed, constructed, implemented, operated, or maintained by the eligible entity;

(2) an identification of the natural hazard risks, extreme weather events, or potential cybersecurity vulnerabilities, as applicable, to be addressed by the proposed program or project;

(3) documentation prepared by a Federal, State, regional, or local government agency of the natural hazard risk, potential cybersecurity vulnerability, or risk for extreme weather events to the area where the proposed program or project is to be located;

(4) a description of any recent natural hazards, cybersecurity events, or extreme weather events that have affected the community water system of the eligible entity;

(5) a description of how the proposed program or project would improve the performance of the community water system of the eligible entity under the anticipated natural hazards, cybersecurity vulnerabilities, or extreme weather events; and

(6) an explanation of how the proposed program or project is expected—

(A) to enhance the resilience of the community water system of the eligible entity to the anticipated natural hazards or extreme weather events; or

(B) to reduce cybersecurity vulnerabilities.

(e) Report

Not later than 2 years after November 15, 2021, the Administrator shall submit to Congress a report that describes the implementation of the resilience and sustainability program, which shall include a description of the use and deployment of amounts made available to carry out the resilience and sustainability program.

(f) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out the resilience and sustainability program $50,000,000 for each of fiscal years 2022 through 2026.

(2) Use of funds

Of the amounts made available under paragraph (1) for grants to eligible entities under the resilience and sustainability program—

(A) 50 percent shall be used to provide grants to eligible entities that serve a population of—

(i) equal to or greater than 10,000; and

(ii) fewer than 100,000; and

(B) 50 percent shall be used to provide grants to eligible entities that serve a population equal to or greater than 100,000.

(3) Administrative costs

Of the amounts made available under paragraph (1), not more than 2 percent may be used by the Administrator for the administrative costs of carrying out the resilience and sustainability program.

(July 1, 1944, ch. 373, title XIV, § 1459F, as added Pub. L. 117–58, div. E, title I, § 50107, Nov. 15, 2021, 135 Stat. 1144.)

§ 300j–19h. Advanced drinking water technologies

(a) Study

(1) In general

Subject to the availability of appropriations, not later than 1 year after November 15, 2021, the Administrator shall carry out a study that

examines the state of existing and potential future technology, including technology that could address cybersecurity vulnerabilities, that enhances or could enhance the treatment, monitoring, affordability, efficiency, and safety of drinking water provided by a public water system.

(2) Report

The Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the study under paragraph (1).

(b) Advanced drinking water technology grant program

(1) Definitions

In this subsection:

(A) Eligible entity

The term ''eligible entity'' means the owner or operator of a public water system that—

(i) serves—

(I) a population of not more than 100,000 people; or

(II) a community described in section 300j–19a(c)(2) of this title;

(ii) has plans to identify or has identified opportunities in the operations of the public water system to employ new, existing, or emerging, yet proven, technologies, including technology that could address cybersecurity vulnerabilities, as determined by the Administrator, that enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water provided by the public water system, including technologies not identified in the study conducted under subsection (a)(1); and

(iii) has expressed an interest in the opportunities in the operation of the public water system to employ new, existing, or emerging, yet proven, technologies, including technology that could address cybersecurity vulnerabilities, as determined by the Administrator, that enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water provided by the public water system, including technologies not identified in the study conducted under subsection (a)(1).

(B) Program

The term ''program'' means the competitive grant program established under paragraph (2).

(2) Establishment

The Administrator shall establish a competitive grant program under which the Administrator shall award grants to eligible entities for the purpose of identifying, deploying, or identifying and deploying technologies described in paragraph (1)(A)(ii).

(3) Requirements

(A) Applications

To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(B) Federal share

(i) In general

Subject to clause (ii), the Federal share of the cost of a project carried out using a grant under the program shall not exceed 90 percent of the total cost of the project.

(ii) Waiver

The Administrator may increase the Federal share under clause (i) to 100 percent if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

(4) Report

Not later than 2 years after the date on which the Administrator first awards a grant under the program, and annually thereafter, the Administrator shall submit to Congress a report describing—

(A) each recipient of a grant under the program during the previous 1-year period; and

(B) a summary of the activities carried out using grants awarded under the program.

(5) Funding

(A) Authorization of appropriations

There is authorized to be appropriated to carry out the program $10,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

(B) Administrative costs

Not more than 2 percent of the amount made available for a fiscal year under subparagraph (A) to carry out the program may be used by the Administrator for the administrative costs of carrying out the program.

(July 1, 1944, ch. 373, title XIV, § 1459G, as added Pub. L. 117–58, div. E, title I, § 50112, Nov. 15, 2021, 135 Stat. 1154.)

PART F—ADDITIONAL REQUIREMENTS TO REGULATE SAFETY OF DRINKING WATER

§ 300j–21. Definitions

As used in this part—

(1) Drinking water cooler

The term ''drinking water cooler'' means any mechanical device affixed to drinking water supply plumbing which actively cools water for human consumption.

(2) Lead free

The term ''lead free'' means, with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface con-

tains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

(3) Local educational agency

The term ''local educational agency'' means—

(A) any local educational agency as defined in section 7801 of title 20,

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operating under the defense dependent's education system provided for under the Defense Dependent's Education Act of 1978 (20 U.S.C. 921 and following).

(4) Repair

The term ''repair'' means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

(5) Replacement

The term ''replacement'', when used with respect to a drinking water cooler or drinking water fountain, means the permanent removal of the water cooler or drinking water fountain and the installation of a lead free water cooler or drinking water fountain.

(6) School

The term ''school'' means any elementary school or secondary school as defined in section 7801 of title 20 and any kindergarten or day care facility.

(7) Lead-lined tank

The term ''lead-lined tank'' means a water reservoir container in a drinking water cooler which container is constructed of lead or which has an interior surface which is not lead free.

(July 1, 1944, ch. 373, title XIV, § 1461, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2884; amended Pub. L. 103–382, title III, § 391(p), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 104–182, title V, § 501(f)(7), Aug. 6, 1996, 110 Stat. 1692; Pub. L. 107–110, title X, § 1076(x), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 114–95, title IX, § 9215(*ooo*), Dec. 10, 2015, 129 Stat. 2188; Pub. L. 115–270, title II, § 2006(b)(2), Oct. 23, 2018, 132 Stat. 3844.)

Editorial Notes

REFERENCES IN TEXT

The Defense Dependent's Education Act of 1978, referred to in par. (3)(C), probably means the Defense Dependents' Education Act of 1978, title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§ 921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

2018—Par. (5). Pub. L. 115–270 inserted ''or drinking water fountain'' after ''water cooler'' wherever appearing.

2015—Pars. (3)(A), (6). Pub. L. 114–95 made technical amendment to references in original act which appear in text as references to section 7801 of title 20.

2002—Pars. (3)(A), (6). Pub. L. 107–110 substituted ''section 7801 of title 20'' for ''section 8801 of title 20''.

1996—Pub. L. 104–182 made technical amendment to section catchline and first word of text.

1994—Par. (3)(A). Pub. L. 103–382, § 391(p)(1), substituted ''section 8801 of title 20'' for ''section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381)''.

Par. (6). Pub. L. 103–382, § 391(p)(2), substituted ''section 8801 of title 20'' for ''section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

§ 300j–22. Recall of drinking water coolers with lead-lined tanks

For purposes of the Consumer Product Safety Act [15 U.S.C. 2051 et seq.], all drinking water coolers identified by the Administrator on the list under section 300j–23 of this title as having a lead-lined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after October 31, 1988. For purposes of enforcement, such order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)).

(July 1, 1944, ch. 373, title XIV, § 1462, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104–182, title V, § 501(f)(8), Aug. 6, 1996, 110 Stat. 1692.)

Editorial Notes

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in text, is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to chapter 47 (§ 2051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of Title 15 and Tables.

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and first word of text.

§ 300j–23. Drinking water coolers containing lead

(a) Publication of lists

The Administrator shall, after notice and opportunity for public comment, identify each brand and model of drinking water cooler which

is not lead free, including each brand and model of drinking water cooler which has a lead-lined tank. For purposes of identifying the brand and model of drinking water coolers under this subsection, the Administrator shall use the best information available to the Environmental Protection Agency. Within 100 days after October 31, 1988, the Administrator shall publish a list of each brand and model of drinking water cooler identified under this subsection. Such list shall separately identify each brand and model of cooler which has a lead-lined tank. The Administrator shall continue to gather information regarding lead in drinking water coolers and shall revise and republish the list from time to time as may be appropriate as new information or analysis becomes available regarding lead contamination in drinking water coolers.

(b) Prohibition

No person may sell in interstate commerce, or manufacture for sale in interstate commerce, any drinking water cooler listed under subsection (a) or any other drinking water cooler which is not lead free, including a lead-lined drinking water cooler.

(c) Criminal penalty

Any person who knowingly violates the prohibition contained in subsection (b) shall be imprisoned for not more than 5 years, or fined in accordance with title 18, or both.

(d) Civil penalty

The Administrator may bring a civil action in the appropriate United States District Court (as determined under the provisions of title 28) to impose a civil penalty on any person who violates subsection (b). In any such action the court may impose on such person a civil penalty of not more than $5,000 ($50,000 in the case of a second or subsequent violation).

(July 1, 1944, ch. 373, title XIV, § 1463, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104–182, title V, § 501(f)(9), Aug. 6, 1996, 110 Stat. 1692.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j–24. Lead contamination in school drinking water

(a) Distribution of drinking water cooler list

Within 100 days after October 31, 1988, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 300j–23(a) of this title.

(b) Guidance document and testing protocol

The Administrator shall publish a guidance document and a testing protocol to assist public water systems and schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, public water systems, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after October 31, 1988.

(c) Dissemination to schools, etc.

Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b), together with the list of drinking water coolers published under section 300j–23(a) of this title.

(d) Voluntary school and child care program lead testing and reduction grant program

(1) Definitions

In this subsection:

(A) Child care program

The term ''child care program'' has the meaning given the term ''early childhood education program'' in section 1003(8) of title 20.

(B) Local educational agency

The term ''local educational agency'' means—

(i) a local educational agency (as defined in section 7801 of title 20);

(ii) a tribal education agency (as defined in section 5502 of title 20); and

(iii) a person that owns or operates a child care program facility.

(2) Establishment

(A) In general

Not later than 180 days after December 16, 2016, the Administrator shall establish a voluntary school and child care program lead testing, compliance monitoring, and lead reduction grant program to make grants available to—

(i) States to assist local educational agencies, public water systems that serve schools and child care programs under the jurisdiction of those local educational agencies, and qualified nonprofit organizations in voluntary testing or compliance monitoring for and remediation of lead contamination in drinking water at schools and child care programs under the jurisdiction of those local educational agencies; and

(ii) tribal consortia to assist tribal education agencies (as defined in section 5502 of title 20), public water systems that serve schools and child care programs under the jurisdiction of those tribal education agencies, and qualified nonprofit organizations in voluntary testing or compliance monitoring for and remediation of

lead contamination in drinking water at schools and child care programs under the jurisdiction of those tribal education agencies.

(B) Direct grants to local educational agencies

The Administrator may make a grant for the voluntary testing or compliance monitoring for or remediation of lead contamination described in subparagraph (A) directly available to—

(i) any local educational agency described in clause (i) or (iii) of paragraph (1)(B) located in a State that does not participate in the voluntary grant program established under subparagraph (A);

(ii) any local educational agency described in clause (ii) of paragraph (1)(B);

(iii) any public water system that is located in a State that does not participate in the voluntary grant program established under subparagraph (A) that—

(I) assists schools or child care programs in lead testing;

(II) assists schools or child care programs with compliance monitoring;

(III) assists schools with carrying out projects to remediate lead contamination in drinking water; or

(IV) provides technical assistance to schools or child care programs in carrying out lead testing; or

(iv) a qualified nonprofit organization, as determined by the Administrator.

(C) Technical assistance

In carrying out the grant program under subparagraph (A), beginning not later than 1 year after October 23, 2018, the Administrator shall provide technical assistance to recipients of grants under this subsection—

(i) to assist in identifying the source of lead contamination in drinking water at schools and child care programs under the jurisdiction of the grant recipient;

(ii) to assist in identifying and applying for other Federal and State grant programs that may assist the grant recipient in eliminating lead contamination described in clause (i);

(iii) to provide information on other financing options in eliminating lead contamination described in clause (i); and

(iv) to connect grant recipients with nonprofit and other organizations that may be able to assist with the elimination of lead contamination described in clause (i).

(3) Application

To be eligible to receive a grant under this subsection, a State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(4) Priority

In making grants under this subsection, the Administrator shall give priority to States, local educational agencies, public water systems, tribal consortia, and qualified nonprofit organizations that will assist in voluntary testing for or the remediation of lead contamination in drinking water at schools and child care programs that are in low-income areas.

(5) Limitation on use of funds

Not more than 4 percent of grant funds accepted by a State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization for a fiscal year under this subsection shall be used to pay the administrative costs of carrying out this subsection.

(6) Guidance; public availability

As a condition of receiving a grant under this subsection, the recipient State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization shall ensure that each local educational agency, public water system, tribal consortium, or qualified nonprofit organization to which grant funds are distributed shall—

(A) expend grant funds in accordance with—

(i) the guidance of the Environmental Protection Agency entitled ''3Ts for Reducing Lead in Drinking Water in Schools: Revised Technical Guidance'' and dated October 2006 (or any successor guidance); or

(ii) applicable State or tribal regulations or guidance regarding voluntary testing or compliance monitoring for and remediation of lead contamination in drinking water in schools and child care programs that are not less stringent than the guidance referred to in clause (i); and

(B)(i) make available, if applicable, in the administrative offices and, to the extent practicable, on the Internet website of the applicable local educational agency for inspection by the public (including teachers, other school personnel, and parents) a copy of the results of any voluntary testing for lead contamination in school and child care program drinking water carried out using grant funds under this subsection; and

(ii) notify parent, teacher, and employee organizations of the availability of the results described in clause (i).

(7) Maintenance of effort

If resources are available to a State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization from any other Federal agency, a State, or a private foundation for testing or compliance monitoring for or remediation of lead contamination in drinking water, the State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization shall demonstrate that the funds provided under this subsection will not displace those resources.

(8) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection—

(A) $30,000,000 for fiscal year 2022;

(B) $35,000,000 for fiscal year 2023;
(C) $40,000,000 for fiscal year 2024;
(D) $45,000,000 for fiscal year 2025; and
(E) $50,000,000 for fiscal year 2026.

(July 1, 1944, ch. 373, title XIV, § 1464, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2886; amended Pub. L. 104–182, title V, § 501(f)(10), Aug. 6, 1996, 110 Stat. 1692; Pub. L. 114–322, title II, § 2107(a), Dec. 16, 2016, 130 Stat. 1727; Pub. L. 115–270, title II, § 2006(a), Oct. 23, 2018, 132 Stat. 3843; Pub. L. 117–58, div. E, title I, § 50110, Nov. 15, 2021, 135 Stat. 1150.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, § 50110(1), inserted ''public water systems and'' after ''protocol to assist'' and ''public water systems,'' after ''schools,''.

Subsec. (d). Pub. L. 117–58, § 50110(2)(A), inserted ''and reduction'' after ''lead testing'' in heading.

Subsec. (d)(2)(A). Pub. L. 117–58, § 50110(2)(B)(i), substituted ''the Administrator shall establish a voluntary school and child care program lead testing, compliance monitoring, and lead reduction grant program to make grants available to—'' and cls. (i) and (ii) for ''the Administrator shall establish a voluntary school and child care program lead testing grant program to make grants available to States to assist local educational agencies in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the local educational agencies.''

Subsec. (d)(2)(B). Pub. L. 117–58, § 50110(2)(B)(ii)(I), inserted ''or compliance monitoring for or remediation of lead contamination'' after ''voluntary testing'' in introductory provisions.

Subsec. (d)(2)(B)(iii), (iv). Pub. L. 117–58, § 50110(2)(B)(ii)(II)–(IV), added cls. (iii) and (iv).

Subsec. (d)(3). Pub. L. 117–58, § 50110(2)(C), substituted ''State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization'' for ''State or local educational agency''.

Subsec. (d)(4). Pub. L. 117–58, § 50110(2)(D), substituted ''States, local educational agencies, public water systems, tribal consortia, and qualified nonprofit organizations'' for ''States and local educational agencies'' and inserted ''or the remediation of'' after ''testing for''.

Subsec. (d)(5). Pub. L. 117–58, § 50110(2)(C), substituted ''State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization'' for ''State or local educational agency''.

Subsec. (d)(6). Pub. L. 117–58, § 50110(2)(E)(i)(II), inserted '', public water system, tribal consortium, or qualified nonprofit organization'' after ''each local educational agency'' in introductory provisions.

Pub. L. 117–58, § 50110(2)(E)(i)(I), which directed substitution of ''State, local educational agency, public water system, tribal consortium, or qualified nonprofit agency'' for ''State or local educational agency'' in introductory provisions, could not be executed because of the intervening amendment by Pub. L. 117–58, § 50110(2)(C). See Amendment note below.

Pub. L. 117–58, § 50110(2)(C), substituted ''State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization'' for ''State or local educational agency'' in introductory provisions.

Subsec. (d)(6)(A)(ii). Pub. L. 117–58, § 50110(2)(E)(ii), inserted ''or tribal'' after ''applicable State'' and substituted ''voluntary testing or compliance monitoring for and remediation of lead contamination'' for ''reducing lead''.

Subsec. (d)(6)(B)(i). Pub. L. 117–58, § 50110(2)(E)(iii), inserted ''applicable'' before ''local educational agency''.

Subsec. (d)(7). Pub. L. 117–58, § 50110(2)(C), (F), substituted ''State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization'' for ''State or local educational agency'' in two places and ''testing or compliance monitoring for or remediation of'' for ''testing for''.

Subsec. (d)(8). Pub. L. 117–58, § 50110(2)(G), added par. (8) and struck out former par. (8). Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2017 through 2019, and $25,000,000 for each of fiscal years 2020 and 2021.''

2018—Subsec. (d)(2)(C). Pub. L. 115–270, § 2006(a)(1), added subpar. (C).

Subsec. (d)(4) to (7). Pub. L. 115–270, § 2006(a)(2), (3), added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively. Former par. (7) redesignated (8).

Subsec. (d)(8). Pub. L. 115–270, § 2006(a)(2), (4), redesignated par. (7) as (8) and substituted ''are authorized'' for ''is authorized'' and ''2019, and $25,000,000 for each of fiscal years 2020 and 2021'' for ''2021''.

2016—Subsec. (d). Pub. L. 114–322 added subsec. (d) and struck out former subsec. (d) which related to a remedial action program to assist local educational agencies in testing for, and remedying, lead contamination in drinking water at schools.

1996—Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j–25. Drinking water fountain replacement for schools

(a) Establishment

Not later than 1 year after October 23, 2018, the Administrator shall establish a grant program to provide assistance to local educational agencies for the replacement of drinking water fountains manufactured prior to 1988.

(b) Use of funds

Funds awarded under the grant program—

(1) shall be used to pay the costs of replacement of drinking water fountains in schools; and

(2) may be used to pay the costs of monitoring and reporting of lead levels in the drinking water of schools of a local educational agency receiving such funds, as determined appropriate by the Administrator.

(c) Priority

In awarding funds under the grant program, the Administrator shall give priority to local educational agencies based on economic need.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2019 through 2021.

(July 1, 1944, ch. 373, title XIV, § 1465, as added Pub. L. 115–270, title II, § 2006(b)(1), Oct. 23, 2018, 132 Stat. 3844.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300j–25, act July 1, 1944, ch. 373, title XIV, § 1465, as added Pub. L. 100–572, § 2(a), Oct. 31, 1988, 102 Stat. 2887; amended Pub. L. 104–182, title V, § 501(d), (f)(11), Aug. 6, 1996, 110 Stat. 1691, 1692, related to Federal assistance for State programs regarding lead contamination in school drinking water, prior to repeal by Pub. L. 114–322, title II, § 2107(b), Dec. 16, 2016, 130 Stat. 1728.

§ 300j–26. Certification of testing laboratories

The Administrator of the Environmental Protection Agency shall assure that programs for

the certification of testing laboratories which test drinking water supplies for lead contamination certify only those laboratories which provide reliable accurate testing. The Administrator (or the State in the case of a State to which certification authority is delegated under this subsection) shall publish and make available to the public upon request the list of laboratories certified under this subsection.[1]

(Pub. L. 100–572, § 4, Oct. 31, 1988, 102 Stat. 2889.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Lead Contamination Control Act of 1988, and not as part of the Public Health Service Act which comprises this chapter.

§ 300j–27. Registry for lead exposure and Advisory Committee

(a) Definitions

In this section:

(1) City

The term ''City'' means a city exposed to lead contamination in the local drinking water system.

(2) Committee

The term ''Committee'' means the Advisory Committee established under subsection (c).

(3) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(b) Lead exposure registry

The Secretary shall establish within the Agency for Toxic Substances and Disease Registry or the Centers for Disease Control and Prevention at the discretion of the Secretary, or establish through a grant award or contract, a lead exposure registry to collect data on the lead exposure of residents of a City on a voluntary basis.

(c) Advisory Committee

(1) Membership

(A) In general

The Secretary shall establish, within the Agency for Toxic Substances and Disease Registry an Advisory Committee in coordination with the Director of the Centers for Disease Control and Prevention and other relevant agencies as determined by the Secretary consisting of Federal members and non-Federal members, and which shall include—

(i) an epidemiologist;
(ii) a toxicologist;
(iii) a mental health professional;
(iv) a pediatrician;
(v) an early childhood education expert;
(vi) a special education expert;
(vii) a dietician; and
(viii) an environmental health expert.

(B) Requirements

Membership in the Committee shall not exceed 15 members and not less than ½ of the members shall be Federal members.

(2) Chair

The Secretary shall designate a chair from among the Federal members appointed to the Committee.

(3) Terms

Members of the Committee shall serve for a term of not more than 3 years and the Secretary may reappoint members for consecutive terms.

(4) Application of FACA

The Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).[1]

(5) Responsibilities

The Committee shall, at a minimum—

(A) review the Federal programs and services available to individuals and communities exposed to lead;

(B) review current research on lead poisoning to identify additional research needs;

(C) review and identify best practices, or the need for best practices, regarding lead screening and the prevention of lead poisoning;

(D) identify effective services, including services relating to healthcare, education, and nutrition for individuals and communities affected by lead exposure and lead poisoning, including in consultation with, as appropriate, the lead exposure registry as established in subsection (b); and

(E) undertake any other review or activities that the Secretary determines to be appropriate.

(6) Report

Annually for 5 years and thereafter as determined necessary by the Secretary or as required by Congress, the Committee shall submit to the Secretary, the Committees on Finance, Health, Education, Labor, and Pensions, and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Education and the Workforce, Energy and Commerce, and Agriculture of the House of Representatives a report that includes—

(A) an evaluation of the effectiveness of the Federal programs and services available to individuals and communities exposed to lead;

(B) an evaluation of additional lead poisoning research needs;

(C) an assessment of any effective screening methods or best practices used or developed to prevent or screen for lead poisoning;

(D) input and recommendations for improved access to effective services relating to health care, education, or nutrition for individuals and communities impacted by lead exposure; and

(E) any other recommendations for communities affected by lead exposure, as appropriate.

(d) Authorization of appropriations

There are authorized to be appropriated for the period of fiscal years 2017 through 2021—

(1) $17,500,000 to carry out subsection (b); and

[1] So in original. Probably should be ''section.''

[1] See References in Text note below.

(2) $2,500,000 to carry out subsection (c).

(Pub. L. 114–322, title II, § 2203, Dec. 16, 2016, 130 Stat. 1734.)

Editorial Notes

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§ 1001 et seq.) of Title 5 by Pub. L. 117–286, §§ 3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

CODIFICATION

Section was enacted as part of the Water and Waste Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

SUBCHAPTER XIII—PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

§ 300k. Establishment of program of grants to States

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs—

(1) to screen women for breast and cervical cancer as a preventive health measure;

(2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services and support services such as case management;

(3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;

(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;

(5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and

(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

(b) Grant and contract authority of States

(1) In general

A State receiving a grant under subsection (a) may, subject to paragraphs (2) and (3), expend the grant to carry out the purpose described in such subsection through grants to public and nonprofit private entities and through contracts with public and private entities.

(2) Certain applications

If a nonprofit private entity and a private entity that is not a nonprofit entity both submit applications to a State to receive an award of a grant or contract pursuant to paragraph (1), the State may give priority to the application submitted by the nonprofit private entity in any case in which the State determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.

(3) Payments for screenings

The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.] if payment were made under such part for furnishing the procedure to a woman enrolled under such part.

(c) Special consideration for certain States

In making grants under subsection (a) to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection—

(1) has been approved through a process of peer review; and

(2) is made with respect to geographic areas in which there is—

(A) a substantial rate of mortality from breast or cervical cancer; or

(B) a substantial incidence of either of such cancers.

(d) Coordinating committee regarding year 2020 health objectives

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2020. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.

(July 1, 1944, ch. 373, title XV, § 1501, as added Pub. L. 101–354, § 2, Aug. 10, 1990, 104 Stat. 409; amended Pub. L. 103–43, title XX, § 2008(c)(1), June 10, 1993, 107 Stat. 211; Pub. L. 103–183, title I, § 101(a), (b), (f), (g)(1), Dec. 14, 1993, 107 Stat. 2227–2229; Pub. L. 105–340, title II, § 203(a), (b), Oct. 31, 1998, 112 Stat. 3194; Pub. L. 105–392, title IV, § 401(b)(5), Nov. 13, 1998, 112 Stat. 3587; Pub. L. 110–18, § 2(1), Apr. 20, 2007, 121 Stat. 80.)