President Signs Safe Drinking Water Act Amendments

[EPA press release - June 20, 1986]
President Ronald Reagan yesterday signed the 1986 Amendments to the Safe Drinking Water Act, the first major environmental legislation to become law this year.

Lee M. Thomas, Environmental Protection Agency Administrator, said, “This law greatly increases EPA’s responsibilities for protecting the nation’s drinking water. We intend to faithfully carry out its provisions to assure the continued safeguarding of this precious resource.”

Lawrence J. Jensen, EPA Assistant Administrator for Water, added, “Congress has sent a clear signal that the people of this nation are concerned about their drinking water. Solutions to drinking water challenges require that the states continue to be integrally involved in drinking water regulations. We look forward to strengthening our already good relationship with the states as we implement these amendments.”

The measure, which passed both House and Senate by overwhelming margins last month, creates a demonstration program to protect aquifers from pollutants, mandates state-developed critical wellhead protection programs, requires the development of drinking water standards for many contaminants now unregulated, and strengthens EPA’s enforcement powers in dealing with recalcitrant water systems and underground injection well operators. It also imposes a ban on lead-content plumbing materials. Studies have found that excessive levels of lead in drinking water can harm the central nervous system in humans, especially children.

The measure also provides substantial new authority to EPA to enforce the law including increased civil and criminal penalties for violations.

The new law:

- Requires EPA to regulate more than 80 contaminants in drinking water within three years, and, after that, at least 25 more by 1991.
- Requires certain water systems using surface water sources to use filtration treatment under appropriate circumstance.
- Requires certain water systems using groundwater sources to use disinfection treatment.
- Calls for EPA to impose new monitoring requirements on public water systems for contaminants not yet regulated.
- Provides for a demonstration program to protect critical portions of designated aquifers.
- Requires states to develop programs for protecting areas around wells supplying public drinking water systems.
- Requires EPA to issue new rules for monitoring wells injecting wastes below drinking water sources, and report to Congress on other types of injection wells.
- Prohibits use of lead solders, flux and pipes in public water systems. States will enforce this provision.
- Authorizes EPA to treat Indian tribes as states and delegate primary enforcement responsibility to them for safe drinking water.

In order to execute EPA’s responsibilities under the amendments, Congress authorized $170 million for fiscal 1987.
The EPA Office of Drinking Water, directed by Michael Cook, will administer the drinking water and underground injection control provisions of the act. The Office of Ground Water Protection , directed by Marian Mlay, will administer sole source aquifer and wellhead protection provisions.
A fact sheet on the 1986 Amendments is attached.

Fact Sheet

Key Provisions of Safe Drinking Water Act 1986 Amendments
Amendments to the 1974 Act were approved May 13 by the House 382 to 21, and May 21 by the Senate 94 to 0.
Standards
The amendments require 83 new primary drinking water standards within three years.

- EPA must require nine contaminants within a year of enactment, another 40 within two years, and the rest within three years.
- EPA has the option of substituting up to seven other contaminants for those on the list if it finds this will give greater health protection.
- In addition to the above 83, at least 25 more primary standards will be required by 1991.

- By 1988, EPA must specify criteria for filtration of surface water supplies.
- By 1990, EPA must specify criteria for disinfection of groundwater supplies.

Monitoring for Unregulated Contaminants

- EPA is required to issue within 18 months regulations requiring public water systems to test for contaminants not yet regulated in drinking water by the federal government. Public systems would have to test their water at least once every five years thereafter.
- EPA is required to list the unregulated contaminants to be monitored. States with delegated authority can delete contaminants from the list if EPA approves, and can add to the list without EPA approval.
- Small systems supplying less than 150 service connections are allowed to meet monitoring requirements simply by submitting a water sample to the state or EPA, or allowing the state or EPA to take their own sample.

Enforcement

- EPA is required to issue administrative orders to begin court action against public water systems in violation when states do not take appropriate enforcement action within 30 days of notification.
- Additional authority to enforce against public water systems in violation is granted, and maximum civil penalty limits are raised to $25,000 per day of violation.
- EPA must enforce against violations whenever states do not take appropriate actions.
- Civil and criminal penalty limits are increased to $25,000 and $50,000 per day of violation, respectively. Enforcement procedures are streamlined.

Groundwater

- Sole Source Aquifer Demonstration Program
  - Requires EPA to establish demonstration programs to protect “critical aquifer areas,” that is, all or part of a designated sole source aquifer from degradation.
  - EPA to establish within one year of date of enactment criteria for selecting such critical areas.
  - States and local authorities to map area and provide a comprehensive protection plan to EPA.
  - Once plan is approved, EPA may enter a cooperative agreement to implement the project on a 50/50 basis. Maximum grant to a state for any one aquifer is $4 million per year.
  - EPA must report to Congress by September1990 on accomplishments of this program.
- Protection of Wellheads
  - Requires states to develop programs for protecting areas around wells supplying public drinking water systems from contamination that could harm health. Authorizes $20 million annually in Fiscal 1987-88 and $35 million in 1989-91.
  - Gives states three years to develop these programs.
  - Requires state wellhead protection program to define responsibilities of state and local governments and water systems, and meet other requirements. States are given three years to submit the plan to EPA.
  - EPA to provide criteria to states for defining areas within one year of enactment.
  - Upon approval, states are eligible for EPA grant for 50 percent of costs (determined by EPA) of plan development and implementation. Funds after three years of enactment are only available to implement protection.
  - States must start implementing a plan within two years of submittal and provide biannual status report to EPA.
- Underground Injection
  - Requires EPA to issue rules within 18 months for monitoring of wells injecting wastes below a drinking water source (Class I wells).
  - Requires EPA to report to Congress by September 1987 summarizing results of state surveys now required on Class V wells.
  - Requires states to certify and EPA to review programs to regulate annular injection (injection between the tubing and protective casing of a well) and surface disposal of oilfield brines.

Ban on Lead-Content Plumbing Materials

- Prohibits use of lead solders, flux and pipes in new installations and repairs of public water systems and drinking water plumbing connected to such systems. A warning is required on any solder containing more than .2 percent lead.
- Prohibition to be implemented via state enforcement.

- If EPA determines states's failure to enforce requirements, it may withhold up to 5 per cent of a public water system's grant.
- EPA required to notify states of new requirements within 90 days of enforcement.
- Public water systems required within two years to provide public notification of all users explaining the potential lead contamination sources and reasonably available methods of mitigating lead contamination.

Indian Jurisdictions

- Authorizes EPA to treat Indian tribes as states under the Safe Drinking Water Act. Indian tribes may be delegated primary enforcement responsibility for public water systems and underground injection control, and may be provided with grant and contract assistance.
- EPA must, within 18 months of enactment, promulgate final regulations specifying those provisions of the act for which it is appropriate to treat covered Indian tribes as states.
- EPA, in conjunction with the Indian Health Service, must, within 12 months of enactment, conduct a survey of drinking water on Indian reservations.

Other Changes to Regulatory Program

- Federal authority to act against tampering with public water systems.
- Revised procedures for public notification of water system violations. Notice of serious violations are to be given within 14 days.
- Expanded federal emergency powers include intervention against high-risk contamination of underground drinking water sources as well as the water supply, and the right to require polluters to provide alternative supplies. Section includes new funding authorization.

Note: EPA already has begun to fulfill a substantial portion of the new statutory mandates. Of the more than 83 required standards, EPA has proposed Recommended Maximum Contaminant Levels (health goals) for 43 constituents; proposed Maximum Contaminant Levels (enforceable standards) for nine (volatile organic compounds), and promulgated a Maximum Contaminant Level for fluoride. EPA also has published proposed monitoring rules for 51 unregulated contaminants.

Safe Drinking Water Act Amendments of 1996

GENERAL GUIDE TO PROVISIONS

Environmental Protection Agency
Office of Ground Water and Drinking Water

August 1996

The Safe Drinking Water Act Amendments of 1996 (PL 104-182) establish a new charter for the nation's public water systems, States, and the Environmental Protection Agency in protecting the safety of drinking water. The amendments include, among other things, new prevention approaches, improved consumer information, changes to improve the regulatory program, and funding for States and local water systems. President Clinton signed the Amendments on August 6, 1996. Copies are available from the Government Printing Office (tel. 202/512-1808; fax 202/512-2250).

This General Guide provides a subject-indexed overview of the new amendments. The guide will be supplemented with additional summaries and explanatory materials now under preparation by the Environmental Protection Agency.

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ASSESSMENT PROGRAMS: Establishes a new Section 1453 for source water quality assessments. States with PWSS primacy shall submit source water assessment programs to EPA for approval. EPA is required to publish guidance to States by August 6, 1997. States must submit their program to EPA no later than 18 months after EPA publishes guidance. A State program is automatically approved 9 months after submittal to EPA unless EPA disapproves program. [1453] Sec. 132(a)

PROGRAM ELEMENTS: A State assessment program is required to: (1) delineate the boundaries of the areas providing source waters for public water systems, and (2) identify (to the extent practicable) the origins of regulated and certain unregulated contaminants in the delineated area to determine the susceptibility of public water systems to such contaminants. [1453] Sec. 132(a)

TIME FRAME FOR ASSESSMENTS: Assessments are to be completed for all public water systems within 2 years after EPA approval of the State's program. EPA may extend this period up to 18 months taking into account funds made available to the State under the Drinking Water State Revolving Fund (DWSRF). States shall make the results of the source water assessments available to the public. [1453] Sec. 132(a)

USE OF OTHER AUTHORITIES: To avoid duplication, assessments may make use of sanitary surveys, State wellhead protection programs, pesticide State management plans, State watershed initiatives including efforts under the Surface Water Treatment Rule, and efforts under the Federal Water Pollution Control Act (Clean Water Act). [1453] Sec. 132(a)

ASSESSMENT LINK TO ALTERNATIVE MONITORING: For a State to tailor alternative monitoring requirements for pubic water systems under a new permanent monitoring relief authority (Section 1418), a State must have an EPA approved source water assessment program. Any public water system seeking alternative monitoring requirements under a State's permanent monitoring relief authority must have a complete source water assessment. [1453] Sec. 132(a)

DWSRF FUNDS FOR SOURCE WATER PROTECTION: A State may use up to 10% of its DWSRF allotment in both FY 1996 and 1997 to delineate and assess source water protection areas. Loans may also be used to acquire land or conservation easements to protect source waters and to implement voluntary measures to facilitate compliance. A State may use up to an additional 10% of its DWSRF allotment to administer or provide technical assistance through source water protection programs. [1452(g), (k)] Sec. 130

DEMONSTRATION PROJECT: EPA is to conduct a demonstration project of the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands. [1453] Sec. 132(a)

PETITION PROGRAM: A new authority is established for a source water petition program. States may establish a program to receive, approve and respond to petitions from a public water system operator/ owner or local government entity to assist in the development of voluntary local incentive-based partnerships to (1) reduce the presence of contaminants, (2) provide financial or technical assistance requested, and (3) develop recommendations for voluntary, long-term source

water protection strategies. [1454] Sec. 133(a)

CONTAMINANTS ADDRESSED BY PETITIONS: Petitions may address only either pathogenic organisms which are regulated (or for which regulation is required) or contaminants detected that are not found "reliably and consistently" below the MCL. [1454] Sec. 133(a)

RESPONSE TO PETITIONS: In responding to source water petitions, a State is to provide, at a minimum, information on: priority of the public health concern identified by the petition; funds available; and technical/financial assistance available from other Federal and State programs, including the DWSRF and programmatic grants of the CWA, Section 6217 of the Coastal Zone Act, Title XI of the Food Security Act, sole source aquifer, wellhead protection, pesticide-ground water management plans, etc. [1454] Sec. 133(a)

USE OF CLEAN WATER ACT FUNDS: A "Sense of Congress" provision states that priorities established under section 606(c) of the Federal Water Pollution Control Act give special consideration to projects recommended pursuant to local source water petitions. [Free standing--does not amend SDWA] Sec.133(b)

GRANTS FOR STATE PROGRAMS: By August 7, 1997, EPA is to publish guidance to assist States in developing source water quality protection partnership programs, and to assist local governments and community water systems in developing partnerships and assessing source water quality. State grants of $5 million are authorized to carry out such programs. [1454(c)] Sec. 133(a) Also, up to 10% of a State's DWSRF allotment can be used by States for responding to petitions. [1452(g), (k)] Sec. 130

WELLHEAD PROTECTION: Annual funding for States wellhead protection programs is reauthorized for FYs 1997-2003 at $30 million, underground injection control programs at $15 million, and critical aquifer protection at $15 million. [1428(k)] Sec. 120. States may use up to 10% of their DWSRF allotment to implement their wellhead protection programs. [1452(g)] Sec. 130

NEW YORK CITY WATERSHED: Establishes the New York City watershed protection program. EPA is authorized to provide financial assistance to 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. Within 5 years, the Governor of New York is to provide EPA with a report on the results of funded projects. $15 million grant to New York is authorized for each fiscal year 1997 to 2003. [1443(d)] Sec. 128

STATE GROUND WATER PROTECTION

GROUND WATER GRANTS FOR STATES: Establishes a new Section 1429 for state ground water protection programs. EPA may make grants to States to develop programs to ensure coordinated and comprehensive protection of ground water resources within the State. $15 million is authorized for State grants for each fiscal year 1997 to 2003. [1429] Sec. 131

GROUND WATER GRANT GUIDANCE: By August 6, 1997, and annually thereafter, EPA is to publish guidance establishing procedures for State grant applications. [1429] Sec. 131

REPORT TO CONGRESS: By August, 1999, and every three years thereafter, EPA is to report to Congress on the quality of the Nation's ground waters and effectiveness of State programs for ground water protection. [1429] Sec. 131

CAPACITY DEVELOPMENT

NEW SYSTEM AUTHORITY: By October 1, 1999, each State must obtain the authority to ensure that new community water systems and non-transient noncommunity water systems have the technical, financial, and managerial capacity to meet National Primary Drinking Water Regulations. A State will receive only 80% of its DWSRF allotment unless the State has such authority. [1420(a)] Sec. 119

SYSTEMS IN SIGNIFICANT NONCOMPLIANCE: States must prepare and submit to EPA by August 6, 1997 (and periodically update) a list of community water systems and non-transient, non-community water systems that have a history of significant noncompliance, and the reasons for their noncompliance. States must report to EPA in 5 years on the success of efforts to assist small systems in improving capacity. [1420(b)] Sec.119

STATE CAPACITY DEVELOPMENT STRATEGIES: States are required to establish capacity development strategies to assist systems in developing and maintaining technical, financial and management capacity. States not developing and implementing a strategy receive only 90% of their DWSRF allotment in Fiscal Year 2001; 85% in 2002; and 80% in each subsequent fiscal year. [1420(c)] Sec. 119. The total withholding for all capacity development provisions may not exceed 20%. [1452(a)(1)(G)]. Sec. 130

CONTENT OF STATE STRATEGY: In preparing its capacity development strategy, each State shall: consider the criteria it will use to identify public water supplies most in need of improved capacity; describe factors that encourage or impair capacity development; describe how the State will use its authorities to assist systems in complying, encourage partnerships between systems, and assist in training/certification of operators; describe how the State will measure progress; and identify parties interested in capacity development [1420(c)] Sec. 119

EPA INFORMATION: Within 180 days of enactment, EPA is to conduct a review of existing State capacity development efforts and publish information to assist States and water systems in capacity development efforts. Within 2 years of enactment EPA is to develop guidance, in consultation with the States, describing legal authorities and other means to ensure that new systems demonstrate technical, financial, and managerial capacity. [1420(d)] Sec. 119

EFFECT OF REGULATIONS ON CAPACITY: When promulgating new regulations, EPA must include an analysis of the likely effect of regulations on the technical, financial, and managerial capacity of water systems. [1420(d)(3)] Sec. 119

REPORT ON STATE PROGRESS: States must make available to the public a report to the Governor (within 2 years and every 3 years thereafter) on the efficacy of their capacity development strategy and progress in improving water system capacity. [1420(c)(3)] Sec. 119

LINK TO DWSRF ASSISTANCE: Systems that are in significant noncompliance or lack technical, financial and managerial capacity to ensure compliance may not receive DWSRF assistance unless the assistance will ensure compliance and, where the system lacks capacity, the system agrees to undertake appropriate changes, as the State deems necessary, to ensure capacity. [1452(a)(3)] Sec. 130

FINANCE CENTERS: EPA is authorized to provide initial funding for one or more university-based environmental finance centers (including a national public water system capacity development clearinghouse) that would provide technical assistance to State and local officials in developing the financial and managerial capacity of public water systems. $1,500,000 is authorized for each fiscal year 1997-2003. [1420(g)] Sec. 119

TECHNOLOGY ASSISTANCE CENTERS: EPA is authorized to make grants to universities to establish and operate small public water system technology assistance centers. The centers would conduct training and technical assistance relating to the information, performance, and technical needs of small water systems. Criteria are provided for EPA to use to select grant recipients. $2 million is authorized for each of the fiscal years 1997 through 1999 and $5 million for each of the fiscal years 2000 through 2003. [1420(f)] Sec. 119

OPERATOR CERTIFICATION

CERTIFICATION PARTNERSHIP: Within 180 days EPA must initiate a partnership with States, Public Water Systems, and the public to develop information on recommended operator certification requirements. The information developed through this partnership must be published within 18 months of enactment. [1420(d)] Sec. 119

CERTIFICATION GUIDELINES: Within 30 months of enactment, in cooperation with the States, EPA must publish guidelines specifying minimum standards for certification and recertification of operators of community and nontransient, noncommunity water systems. [1419(a)] Existing State programs are to be considered substantially equivalent to the guidelines unless the existing program fails to achieve the overall public health objectives of the guidelines. [1419(c)] Sec. 123

STATE PROGRAMS: Beginning 2 years after guidelines are published, 20% of a State's DWSRF allotment will be withheld if the State is not implementing an operator certification program. [1419(b)] Sec. 123

TRAINING REIMBURSEMENT: EPA, through grants to the States (allocated on the basis of "reasonable costs"), is required to reimburse training and certification costs for operators of systems serving fewer than 3,300, including per diem for unsalaried operators, who are required

to undergo training as a result of the Federal requirement. Grants of $30 million are authorized, and DWSRF funds may used if appropriations are not sufficient. [1419(d)] Sec. 123

II. CONSUMER INFORMATION

CONSUMER AWARENESS

CONSUMER CONFIDENCE REPORTS: Community water systems are to prepare an annual "consumer confidence report" on the source of their drinking water and the levels of contaminants found in the drinking water. The report is to be sent to all customers by mail. The report is required annually, and must include: (1) information on the source of drinking water, (2) brief definitions of terms, (3) (if regulated contaminants are found) the MCLG, MCL, and the level found, (4) (if MCL is violated) information on health effects, and (5) information on levels of unregulated contaminants (if required by EPA regulations). [1414(c)] Sec. 114(a)

COVERAGE: Governors may allow systems serving fewer than 10,000 persons to publish the report in a local news- paper, in lieu of mailing. Governors may also allow systems serving fewer than 500 people to notify customers that the report is available, in lieu of mailing. The report is required annually. States may adopt alternative requirements for the form and content of consumer confidence reports (through State regulation). [1414(c)(4)] Sec. 114(a)

EPA REGULATIONS: EPA must issue regulations within 2 years of enactment, that establish the requirements for the consumer confidence reports. These regulations must be developed in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States. The regulations must include plainly worded definitions of "maximum contaminant level goal," "maximum contaminant level," "variances," and "exemptions," as well as plain-language explanations of the health concerns associated with contaminants. [1414(c)] Sec. 114(a)

HOTLINE: EPA is required to have a Hotline for consumers to provide more information on drinking water contaminants and potential health effects. [1414(c)] Sec. 114(a)

BOTTLED WATER CONSUMER STUDY: The Food and Drug Administration is required to publish in 18 months for public comment, a study on the feasibility of appropriate methods for informing consumers of the contents of bottled water. The final study is to be done in 30 months. [1414(c)] Sec. 114(b)

PUBLIC NOTIFICATION

GENERAL REQUIREMENTS: Clarifies general requirements for public notification of violations of any MCL, treatment technique, testing procedure, or monitoring requirement, and the existence or violation of a variance or exemption. The general requirement includes unregulated contaminants if (as in the old law) notice is required by EPA regulations. The basis for EPA's public notification regulation is altered to clarify those violations requiring 24 hour

notice and those that may be provided at a later date. States are allowed to adopt alternative "form and content" of public notice through State regulation. [1414(c)] Sec. 114(a)

VIOLATIONS WITH SERIOUS EFFECTS: Notices for violations with potential to have "serious adverse effect" must contain an explanation of the violation, the potential health effects, what the system is doing to correct the problem, and whether consumers need to use an alternate source of water. Recipients of such notices must include consumers and the State. Notices must be given by "appropriate" broadcast media and newspaper serving area, or posted door-to-door in lieu of broadcast media/newspaper. Notices must be given within 24 hours after occurrence of violation. [1414(c)] Sec. 114(a)

OTHER VIOLATIONS: EPA is to prescribe the form and manner of the notice for violations that do not have the potential to have a "serious adverse effect." Persons served by a system must receive the notice in the first bill after the violation, in an annual report, or by mail or direct delivery within a year. [1414(c)] Sec. 114(a)

STATE REPORTS: Each State is required to prepare an annual report on violations. States are also required to publish and distribute summaries of the report and specify where the full report is available. The first report is due on January 1, 1998. [1414(c)] Sec. 114(a)

EPA REPORTS: EPA is required to prepare an annual report summarizing States' reports and public notices submitted by Indian Tribes. The report will include EPA recommendations on resources needed to improve compliance and will discuss EPA enforcement activity against, and financial assistance to, Indian reservations. EPA's first report is due in July, 1998. [1414(c)] Sec. 114(a)

III. REGULATORY PROGRAM

CONTAMINANT SELECTION

GENERAL AUTHORITY: EPA's general authority to set an MCLG and to regulate a contaminant is modified to apply to contaminants that: may adversely effect human health; are known or likely to occur at a frequency and level of public health concern in public water systems; and for which regulation presents a meaning-ful opportunity for health risk reduction for persons served by public water systems. [Section 1412(b)] Sec. 102(a)

GOOD SCIENCE: Continues the old law's requirement that EPA consult with the EPA's Science Advisory Board and National Drinking Water Advisory Council in promulgating regulations. A provision is added requiring EPA to use the "best available, peer-reviewed science" and data collected by accepted or best available methods in carrying out science-related actions under Section 1412 ("National Drinking Water Regulations"). [1412(b)] Sec.103

OCCURRENCE DATABASE: EPA must establish an occurrence database within 3 years of enactment. In establishing the database, EPA must solicit recommendations from the Science

Advisory Board, States, and other interested parties. The database is to include information on unregulated contaminants for which monitoring is required by EPA, and regulated contaminants detected at quantifiable levels (whether or not the level constitutes a violation of a standard). The information in the database must be made available to the public in a readily accessible form. [1445(g)] Sec. 126

CONTAMINANT LIST: Within 18 months of enactment and every 5 years thereafter, EPA will publish a list of contaminants not subject to any proposed or final national primary drinking water regulation and which are known or anticipated to occur in public water systems and may require regulation. In developing the list, EPA must consult with the scientific community, allow for public comment, and consider the occurrence database (established under Section 1445). [1412(b)] Sec. 102(a)

DETERMINATION OF WHETHER TO REGULATE: The requirement that EPA regulate 25 additional contaminants every 3 years is eliminated. Instead, starting five years from the date of enactment and every 5 years thereafter, EPA is required to determine whether or not to regulate at least 5 of the contaminants listed as potential contaminants for regulation (see "contaminant list" above). EPA is directed to make determinations for contaminants that present the greatest public health concern. In selecting such contaminants, EPA must take into consideration the effect of contaminants upon sensitive subpopulations, such as infants, children, pregnant women, the elderly, and individuals with a history of serious illness. Within 2 years after a determination to regulate a contaminant, EPA must propose a maximum contaminant level goal and national primary drinking water regulation. EPA must publish an MCLG and final national primary drinking water regulation 18 months thereafter. [1412(b)] Sec. 102(b) (related to "25 every 3 years") and Sec. 104(a) (related to "determination")

URGENT THREATS: EPA (after consultation with the Department of Health and Human Services) may issue interim regulations for any contaminant which poses an urgent threat to human health without making the usual "determination to regulate" (see above) and completing the cost-benefit analysis (see "standards and regulation development" below). However a cost-benefit analysis and the required determination (to regulate or not) must be done within 3 years after the interim rule, and the rule must be repromulgated or revised if necessary. [1412(b)] Sec. 102(a)

STANDARDS AND REGULATION DEVELOPMENT

RISK COMMUNICATION: In support of each regulation, EPA must make available to the public a document that specifies, to the extent practicable, the population addressed by the regulation; the central, upper and lower estimates of risk; significant uncertainties and studies that would help resolve uncertainties; and peer-reviewed studies that support or fail to support estimates. [1412(b)] Sec. 103

COST-BENEFIT ANALYSIS: Whenever EPA proposes a national primary drinking water regulation, EPA must publish a cost-benefit analysis. The analysis for alternative MCLs must include, among other things, consideration of effects on sensitive subpopulations. The analysis for treatment technique regulations must take into account "as appropriate" the cost and benefit

factors required for an MCL regulation. EPA may identify health benefit measurement and valua- tion methods, including consumer "willingness to pay" for reductions in health risks. [1412(b)] Sec. 103

SETTING MCLs: The new law retains the old requirement that MCLs be set as close to MCLGs "as is feasible," except when EPA determines that the cost of a standard at that level are not justified by the benefits, or when certain "risk-risk" considerations apply. [1412(b)] Sec. 104

STANDARD SETTING FLEXIBILITY: When EPA proposes an MCL, EPA must publish a determination as to whether the costs of the standard are justified by the benefits. If EPA determines that the costs of an MCL are not justified by the benefits, the law allows EPA to set an MCL that maximizes health risk reduction benefits at a cost that is justified by the benefits. [1412(b)(6)] Sec. 104

LIMITATION ON FLEXIBILITY: EPA cannot use the authority to adjust the MCL from the feasible level if the benefits are justified (at the feasible level) for systems that serve 10,000 or more persons and for systems that are unlikely to receive a variance. [1412(b)(6)] Sec. 104

RISK-RISK CONSIDERATIONS: EPA may consider "risk-risk" tradeoffs when setting an MCL. An MCL may be set at a level other than the feasible level if the technology to meet the MCL would increase health risk by (i) increasing concentration of other contaminants in drinking water, or (ii) interfering with treatment used to comply with other primary drinking water regulations. When establishing such an MCL, EPA shall (i) minimize overall risk by balancing both the risk reductions from treating the individual contaminant with possible side-effects of such treatment on concentrations of other contaminants, and (ii) assure that the combination of treatments for the individual contaminant and other contaminants shall not be more stringent than the "feasible" standard. [1412(b)(5)] Sec. 104

JUDICIAL REVIEW: EPA's determination of whether an MCL's benefits justify the cost is judicially reviewable only as part of a Court's review of the associated primary drinking water regulation. [1412(b)(6)] Sec. 104

REVIEW OF STANDARDS: The requirement for EPA to review every regulation is changed from 3 years to 6 years. EPA shall revise national primary drinking water standards, as appropriate. Any revisions must be in accordance with the new provisions of section 1412, except that each revision "shall maintain, or provide for greater, protection of the health of persons." [1412(b)(9)] Sec. 104(c)

GROUND WATER DISINFECTION: EPA shall issue regulations requiring disinfection "as necessary" for ground water systems. These regulations shall be issued at any time after August 1999 and no later than the final disinfection byproducts Stage II rule. After consultation with the States, EPA shall promulgate criteria for determining whether disinfection shall be required as a treatment technique for groundwater systems. [1412(b)(8)] Sec. 107

EFFECTIVE DATE OF REGULATIONS: National primary drinking water regulations shall take effect 3 years from date of promulgation unless EPA determines an earlier date is

"practicable." An additional 2 years for compliance may be provided if necessary for capital improvements. [1412(b)(10)] Sec. 108

FILTER BACKWASH: Not later than August 2000, EPA shall promulgate a regulation for filter backwash recycling within the treatment process of public water supply systems, unless such recycling has been addressed in the Enhanced Surface Water Treatment Rule prior to that date. [1412(b)(14)] Sec. 110

REGULATION DEVELOPMENT FUNDING: $35 million is authorized for conducting studies, assessments, and analyses in support of regulations or the development of methods for fiscal years 1996-2003. [1412(b)(3)(C)] Sec. 103

BOTTLED WATER STANDARDS: FDA is required to regulate the same contaminants in bottled water that EPA regulates in public water supplies, unless the FDA makes a finding that such a regulation is not necessary to protect public health. The standard of quality regulation for bottled water shall be "no less stringent" than the MCL established by a national primary drinking water regulation, and the regulations must include appropriate monitoring requirements. [Section 410 of the Federal Food, Drug, and Cosmetic Act] Sec. 305

ARSENIC, SULFATE, RADON, DISINFECTION BYPRODUCTS

ARSENIC STUDY PLAN: 180 days after enactment, EPA must develop an arsenic study plan to assess health risks associated with exposure to low levels of arsenic. In conducting this study, EPA must consult with, and may enter into a cooperative agreement with, the National Academy of Sciences (NAS), other Federal agencies, and interested stakeholders. [1412(b)(12)(A)] Sec. 109(a)

ARSENIC DEADLINES: EPA must propose an arsenic national primary drinking water regulation by January 1, 2000 and issue a final regulation by January 1, 2001. [1412(b)(12)(A)] Sec. 109(a)

SULFATE STUDY AND REGULATION: Prior to regulating sulfate, EPA and CDC must conduct a study of the dose response relationship for adverse human health effects from sulfate in drinking water, including effects on populations at greater risk. The study shall be completed not later than 30 months after the date of enactment. Sulfate must be among the 5 contaminants considered for regulation in the first 5 year cycle. If sulfate is regulated, "notification" and "alternative" water must be included as means of compliance. [1412(b)(12)(B)] Sec. 109(a)

RADON STUDY BY NAS: EPA will arrange for the NAS to prepare a risk assessment for radon and an assessment of risk reduction benefits from various mitigation measures. [1412(b)(13)] Sec. 109(b)

RADON STANDARD: Within 30 months of enactment, EPA will publish a health risk reduction and cost analysis associated with possible maximum contaminant levels. Within 3 years after enactment, EPA is to propose a maximum contaminant level goal and drinking water regulation for radon. The final rule must be promulgated 1 year thereafter. [1412(b)(13)] Sec. 109(b)

ALTERNATIVE RADON STANDARD: EPA is required to also establish an "alternative MCL" for radon if the MCL is set a level that 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 level of the alternative MCL is linked to average outdoor radon levels. If an alternative MCL is established, then EPA must publish guidelines for States to develop multimedia radon programs. [1412(b)(13)] Sec. 109(b)

STATE MULTIMEDIA RADON PROGRAMS: Water systems may comply with the alternative MCL in a State that submits a multimedia radon program that is approved by EPA. EPA approval is required if a State's program is expected to achieve risk reduction benefits that are equal or greater than the benefits that would be achieved by implementing the (regular) MCL. EPA's approval or disapproval is required within 180 day of receipt of the State submittal. The compliance date of the radon regulation is extended for 18 months in a State if the Governor of a State submits a letter to EPA (within 90 days after the regulation is promulgated) committing to develop a multimedia program. [1412(b)(13)] Sec. 109(b)

REVIEW OF MULTIMEDIA RADON PROGRAMS: EPA is to review State multimedia programs every 5 years, and may withdraw approval of programs that do not meet the approval requirements (achieving equal or greater risk reduction). Individual public water systems may also submit mitigation programs where a State fails to submit a program or where the State program is disapproved. [1412(b)(13)] Sec. 109(b)

SCHEDULE FOR MICROBIAL/ DISINFECTION BYPRODUCTS: EPA will promulgate an Interim Enhanced Surface Water Treatment rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Bypro- ducts Rule, and a Stage II Disinfection Byproducts Rule in accordance with a February 10, 1994 Federal Register notice. If schedule delays occur, all subsequent rules must be completed no later than a revised date reflecting the intervals for the rule. [1412(b)(8)] Sec. 102

DBP STANDARD-SETTING AND RISK-RISK: EPA may use "risk-risk" considerations in setting DBP Stage I and II standards. The considerations used in proposing the DBP rule in 1994 (developed through a regulatory negotiation) "shall be treated as consistent" with the risk-risk authority for the purpose of finalizing the DBP regulations. [Free standing provision -- does not amend SDWA.] Sec. 104(b)

DBP STANDARD-SETTING: EPA may not use the standard setting flexibility (1412(b)(6)(A)0 to establish an MCL in Stage I and Stage II of the DBP rule, or for Cryptosporidium. EPA may use such authority to establish ground water disinfection regulations. [1412(b)(6)(C)] Sec. 104(a)(b)

DRINKING WATER STUDIES AND RESEARCH

BIOLOGICAL MECHANISMS: EPA must conduct studies to understand the mechanisms by which chemicals cause adverse effects and on new approaches for studying the adverse effects of contaminant mixtures in drinking water. [1458(b)] Sec. 137

MICROBIAL/DBP STUDIES: Within 180 days of enactment EPA, after consultation with HHS and USDA, must conduct studies to support the development of the DBP/microbial pathogen rules. The authorization to conduct the studies is $12.5 million annually for 1997- 2003. The studies must include: toxicological and, if warranted, epidemiological studies to determine the adverse effects from disinfectants and disinfectant by-products; and the development of dose-response curves for Cryptosporidium and Norwalk virus. [1458(c)] Sec. 137

WATERBORNE DISEASE STUDIES AND INFORMATION: Within 2 years of enactment, EPA and CDC must conduct pilot waterborne disease occurrence studies for at least 5 major U.S. communities or public water systems and within 5 years of enactment must prepare a report on the findings and provide a national estimate of waterborne disease occurrence. EPA and CDC must establish a national training and public education campaign to educate professional health care providers and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including microbial contaminants. The authorization for these activities is $3 million/year for 1997 through 2001. [1458(d)] Sec. 137

SENSITIVE SUBPOPULATIONS: Within 4 years of enactment, and periodically as new data becomes available, EPA must conduct studies to identify subpopulations at greater risk (e.g., infants, children, pregnant women) than the general public of adverse health effects from exposure to contaminants in drinking water, and report to Congress on the results of studies. [1458(a)] Sec. 137

SCREENING FOR ESTROGENIC SUBSTANCES: EPA may conduct testing under Section 408(p) of the Food, Drug and Cosmetic Act screening program for substances that may be found in sources of drinking water in which a substantial population may be exposed. [1457] Sec. 136

RESEARCH FUNDS: Funds "as may be necessary" are authorized for research, not to exceed $26.593 million, for drinking water research for fiscal years 1997-2003. Title II--Sec. 201

STRATEGIC PLAN: EPA must develop a strategic plan for drinking water research and transmit this plan to Congress and the public for review (no deadlines included for completing the plan). Title II--Sec. 202]

KERR LAB: EPA is allowed to re-establish a partnership between the Kerr Environmental Research Lab and the National Center for Ground Water Research to conduct research, training, and technology transfer for ground water quality (no funds are authorized for this activity). Title II--Sec. 203

SMALL SYSTEMS TECHNOLOGY, VARIANCES, AND EXEMPTIONS

AFFORDABLE TECHNOLOGIES: When promulgating new national primary drinking water regulations, EPA is to identify technologies that are affordable and which achieve compliance for categories of systems serving fewer than 10,000. Technologies may include packaged or modular

systems and point-of-use (POU)/ point-of-entry (POE) units under the control of the water system (no POU for microbial contaminants). [1412(b)(4)(E)] Sec. 105

SURFACE WATER TREATMENT RULE (SWTR): EPA must within 1 year list small system technologies that meet the SWTR. Within 2 years, EPA (in consultation with the States) must list technologies that achieve compliance with all existing regulations. [1412(b)(4)(E)] Sec. 105

VARIANCE TECHNOLOGY: Whenever an affordable technology cannot be identified that meets an MCL, EPA is required to identify "variance technologies" that are affordable, but do not necessarily meet the MCL. Such technologies shall "achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water." EPA is to issue guidance on variance technologies for existing regulations within 2 years. [1412(b)(15)] Sec.111(a)

SMALL SYSTEM VARIANCES: States are authorized to grant variances from standards for systems serving up to 3,300 people if the system cannot afford to comply (through treatment, an alternative source, or restructuring) and the system installs the variance technology. The terms of the variance must ensure adequate protection of human health. States can grant variances to systems serving 3,300-10,000 people with EPA approval. [1415(e)] Sec. 116

REGULATIONS FOR VARIANCES: Within 2 years, EPA, in consultation with the States, must promulgate regulations for variances. Regulations must specify procedures to be used to grant or deny variances, requirements for the installa- tion and proper operation of variance technologies, eligibility criteria for a variance, and information requirements for variance applications. [1415(e)(7)] Sec. 116(a)

BLOCK ON CERTAIN VARIANCES: Variances are not available for microbial contaminants or for contaminants regulated prior to 1986. [1415(e)(6)] Sec. 116

VARIANCE TIME FRAMES: A variance must require compliance with its conditions within 3 years of the date it is issued. States may allow an additional 2 years when needed. [1415(e)(4)] States must review variances every 5 years following the compliance date established in the variance.[1415(e)(5)] Sec. 116

AFFORDABILITY CRITERIA: Within 18 months of enactment, EPA, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, must publish information to assist States in developing affordability criteria to use in making variance determinations. [1415(e)(7)(B)] Sec. 116

CHANGE TO EXISTING VARIANCE PROCESS: The process for variances (retained from the old law) is streamlined by allowing a system to receive a variance "on the condition" that the system install the BAT, rather than after the installation of the technology, as previously required under SDWA. (NOTE: This change applies to ALL system sizes, not just small systems.) [1415(a)(1)(A)] Sec. 115

REVIEW OF VARIANCES: EPA must review/approve variances for systems serving 3,300-

10,000 people. EPA may review and object to any proposed variance. Consumers of water systems for which a State proposes a variance may petition EPA to object to a variance. States must respond to EPA objections before granting a variance. [1415(e)(10)] Sec. 116

TECHNOLOGY INFORMATION: EPA may request information from manufacturers, States, and other interested persons on the effectiveness of commercially available treatment systems and technologies for the purpose of developing guidance or regulations related to small system technologies and variances. [1445(h)] Sec. 111(b)

EXEMPTIONS: In granting exemptions, a State may consider whether a community may be defined as "disadvantaged" for the purpose of receiving DWSRF funds, or whether DWSRF funds are reasonably likely to be received. States must determine whether management or restructuring changes (or both) would improve water quality or achieve compliance before granting an exemption. Schedules for compliance must include "increments of progress" (retained from old law) or "measures to develop an alternative source of water supply" (new law). A system is not eligible for an exemption if the system receives a small system variance. The period of an exemption is lengthened from 1 year (old law) to 3 years. Eligibility for renewable exemptions is expanded from systems serving fewer than 500 service connections (approximately 1500 persons) under the old law, to systems serving fewer than 3,300 persons. Renewals are limited to a total of 6 years. [1416] Sec. 117

MONITORING

INFORMATION COLLECTION: Previous law is modified to clarify that EPA may collect information from "every person who is subject to any requirement of this title or who is a grantee." By regulation, EPA may require information to assist in developing standards, determining compliance, and evaluating health risk or advising the public of risks. EPA may require information without rulemaking to determine, on a case-by-case basis, whether a person has or is acting in compliance. EPA may also require information without rulemaking to assist in developing standards, but EPA may not require the installation of treatment, testing of technologies, or analysis of monitoring samples unless EPA provides funding. [1445(a)] Sec. 125(a)

REVIEW OF MONITORING REQUIREMENTS: Within two years after enactment, EPA is required to review the monitor-ing requirements for at least 12 contaminants and promulgate any necessary modifications. [1445(a)] Sec. 125(a)

INTERIM MONITORING RELIEF: A State may modify the monitoring requirements for public water systems serving 10,000 or fewer persons for any regulated or unregulated contaminant (except for microbial contaminants, disinfection byproducts, or corrosion byproducts) so that no further quarterly monitoring be required if initial monitoring fails to detect the presence of the contaminant, and the State determines that the contaminant is unlikely to be detected by further monitoring. This monitoring relief will end when permanent monitoring relief is adopted or 36 months after enactment. [1418] Sec. 125(b)

PERMANENT ALTERNATIVE MONITORING: A State exercising primary enforcement

authority for public water systems may adopt permanent alternative monitoring requirements in accordance with EPA guidelines, if the State has an approved source water assessment program. The States alternative monitoring program must be adequate to assure compliance with, and enforcement of, applicable drinking water regulations. The alternative requirements may not apply to regulated microbial contaminants or indicators thereof (e.g., Giardia, coliform), disinfectants or disinfection by-products, or corrosion by-products. [1418] Sec. 125(b)

EPA GUIDANCE: EPA must issue guidelines for alternative monitoring requirements at the same time as guidelines for source water assessments (under section 1453). EPA may also approve alternative monitoring requirements for systems in a State that does not have primacy. [1418] Sec. 125(b)

UNREGULATED CONTAMINANT MONITORING: EPA must issue regulations establishing criteria for the monitoring of unregulated contaminants. Monitoring shall vary based on system size, source water, and contaminants likely to be found. Only a representative sample of systems serving 10,000 persons or fewer must monitor. EPA shall list for unregulated contaminant monitoring no more than 30 contaminants within 3 years after enactment, and every 5 years thereafter. Results of the monitoring are to be included in the national contaminant occurrence data base. [1445(a)] Sec. 125(c)

SMALL AND MEDIUM SYSTEM MONITORING PLAN: Each State may develop an unregulated contaminant monitoring plan for small and medium systems (serving fewer than 10,000). EPA is required to cover the reasonable costs of testing and laboratory analysis for such plans, using funds authorized for unregulated contaminant monitoring (see below), or a $2 million DWSRF reservation. EPA shall waive the requirement for monitoring of unregulated contaminants in a State if the State demonstrates that the criteria for monitoring are not applicable in the State. [1445(a)] Sec. 125(c)

RESULTS REPORTING: Water systems must provide the results of unregulated contaminant monitoring to the primacy agency (State/EPA) and must notify persons served by the system of the availability of results. [1445(a)]Sec. 125(c)

AUTHORIZATION: Congress authorizes $10,000,000 per year for FYs 1997-2003 to carry out provisions for unregulated contaminant monitoring. [1445(a)] Sec. 125(c)

ANALYTICAL METHODS: EPA is required to review new methods for screening regulated contaminants, and may approve them, if they are more accurate or more cost-effective than established methods approved for use in compliance monitoring. [1445(i)] Sec. 125(d)

ENFORCEMENT

ADMINISTRATIVE ORDERS: The process for issuing administrative compliance orders is streamlined by deleting the requirement for EPA to issue a proposed order. [1414] Sec. 113(a)

PENALTY CAP: The maximum administrative penalty for violating an administrative order is raised from $5,000 to $25,000. [1414] Sec. 113(a)

PENALTY PROCESS: The process for assessing an administrative penalty of $5,000 or less is streamlined by deleting the requirement for a hearing in accordance with the Administrative Procedures Act for these penalties. Requires a hearing in accordance with APA procedures if the penalty sought is between $5,000 and $25,000. [1414] Sec. 113(a)

CONSOLIDATION INCENTIVE: A public water supply may submit a plan (with specific measures and schedules) for approval by EPA or a primary enforcement State for consolidation (physical or managerial) or transfer of owner- ship. If the plan is approved, no enforcement action shall be taken with respect to the specific violation identified in the approved plan prior to 2 years after plan approval or the date on which consolidation is completed, whichever is first. [1414(h)]. Sec. 113(a)

ENFORCEABLE REQUIREMENTS: Defines provisions that are enforceable ("applicable requirements of this title"). Applicable requirements are defined as requirements of 1412, 1414, 1415, 1416, 1417, 1441, or 1445; regulations promulgated pursuant to those sections; schedules or requirements imposed pursuant to those sections; and requirements of, or permits issued under a State program which satisfies the requirements of section 1413 or is otherwise approved by EPA. [1414] Sec. 113(a)

NOTIFICATION OF LOCAL OFFICIALS: In nonprimacy states, EPA is required to notify an appropriate locally elected public official before proceeding with an enforcement action. [1414] Sec. 113(a)

EMERGENCY AUTHORITY PENALTY: The penalty for violating an order issued under Section 1431 (Emergency Powers) is increased from $5,000 per day to $15,000 per day. [1414] Sec. 113(d)

IV. FUNDING FOR STATES AND WATER SYSTEMS

DRINKING WATER STATE REVOLVING FUND

ESTABLISHMENT: EPA is required to enter into agreements with eligible States to make capitalization grants to further the health protection objectives of SDWA. A total of $9.6 billion -- $599 million in FY94 and $1.0 billion annually -- is authorized in FY's 95-2003. To be eligible to receive a grant, a State must establish a drinking water treatment revolving loan fund and comply with other requirements of the DWSRF section. [1452(a),(m)] Sec. 130

ALLOTMENT AND ELIGIBILITY: Through fiscal year 1997, funds will be allotted by the formula used to distribute federal grants to States for drinking water program implementation ("public water supply supervision program"). A minimum grant amount of 1% will be available for all States, including Wyoming and DC. Up to 0.33% is available for allotment to other specified areas (Virgin Islands, Guam, et. al.). Funds for FY98 and beyond will be allotted based on the results of the most recent Drinking Water State Revolving Fund (DWSRF) needs survey.

Eligible systems are community water systems and non-profit non-community water systems. No loans can be made to Federal systems. [1452(a),(i)] Sec. 130

LINK TO PRIMACY: States that lose primacy in the future, except for Wyoming, will not be eligible for DWSRF grants. [1452(a)(1)(F)] Sec. 130

LINK TO CAPACITY DEVELOPMENT: EPA is required to withhold DWSRF funds from States that do not set up capacity development programs (20% of DWSRF grant starting in FY99 for new system authority; and 10% in 2001,15% in 2002, and 20% in 2003 for capacity development strategies). Withholding for all capacity development purposes is capped at 20% total. [1452(a)(1)(G)] Sec. 130

LINK TO OPERATOR CERTIFICATION: EPA is required to withhold 20% of DWSRF funds if a State does not meet the requirement for operator certification programs. [1452(a)(1)(G)] Sec. 130

USE OF FUNDS: DWSRF funds can be used for loans, loan guarantees, source of reserve and security for leveraged loans (proceeds of which are placed in the DWSRF), and other uses as allowed in the Act. Funds may be used by a public water system only to "facilitate compliance with national primary drinking water regulations" and "significantly further the health protection objectives of this title." Small systems (fewer than 10,000 persons) are to receive 15% of annual assistance from a State's DWSRF, to the extent such funds can be obligated for eligible projects. Disadvan- taged systems may receive loan subsidies (including forgiveness of principal) up to 30% of a State's DWSRF annual assistance. [1452(a)(2)] Sec. 130

INTENDED USE PLANS: States must annually prepare, after providing for public review and comment, an Intended Use Plan that identifies how the DWSRF funds will be used. States must give highest priority to projects that address the most serious risks to public health, are necessary to achieve compliance, and assist systems most in need on a per household basis. Types of assistance which may be made using State loan funds are specifically defined. [1452(b), 1452(f)] Sec. 130

STATE MATCH: States must contribute an amount equal to 20% of the total federal contribution. State funds must be received on or before the date federal funds are received, except that States may delay the deposit of funds until no later than September 30, 1999 for grant payments made for fiscal years 1994-1997. [1452(e)] Sec. 130

SET-ASIDES: (Prior to allotment to States) $10,000,000 per year is reserved for health effects research and, starting in FY 1998, $2,000,000 per year for unregulated contaminant monitoring. An amount up to 2% of the funds appropriated may be reserved by EPA for technical assistance, and may be used to supplement fund-ing for technical assistance under Section 1442(e). EPA may use up to 1.5% of funds for grants to Indian Tribes and Alaska Native Villages for public water systems. Funds must also be reserved for operator training cost reimbursement if there is no separate appropriation. [1452(i),(n),(o),(q); 1419(d)(4)] Sec 130, Sec 123

OTHER USES OF FUNDS: (After allotment to States) Up to 4% of State allotment may be used

by the State for administration of the fund. An additional 2% may be used for small system technical assistance. Up to ten percent may be used for a combination of the following: PWSS activities, State capacity development strategies, operator certification programs, and source water protection programs. [1452(g)] Sec. 130 Up to 15% may be used for a combination of the following: loans for the acquisition of land or conservation easements, loans to implement voluntary source water protection measures; technical and financial assistance to water systems as part of a State capacity development strategy; delineations/assessments of source water protection areas; and establishment and implementation of wellhead protection programs. No single item can receive greater than 10%. [1452(a)] Sec. 130

COMBINED FINANCIAL ADMINISTRATION: Financial administration can be combined with other funds, such as the Clean Water Act DWSRF, as long as separate accounts are maintained. The authority to establish assistance priorities and oversight responsibilities will be carried out by the primacy agency. [1452(g)] Sec. 130

TRANSFER OF FUNDS: Anytime after one year after a State establishes a DWSRF, but prior to fiscal year 2002, the Governor of a State may transfer 33% of the funds in the Drinking Water DWSRF to the Clean Water Act DWSRF. The same dollar amount may be transferred from the Clean Water Act DWSRF to the Drinking Water DWSRF. Within 4 years, EPA must submit a report to Congress regarding implementation of the transfer provisions. [Free standing provision -- Title III, Sec. 302]

REGULATIONS AND GUIDANCE: EPA is required to publish DWSRF regulations and guidance as necessary. The regulations and guidance will address how States commit and expend allotted funds, use funds efficiently, prevent waste, fraud and abuse, and avoid the use of funds for expansion of public water systems. Guidance and regulations must also ensure that States and public water systems use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards. [1452(g)(3)] Sec. 130

AUDITS: States are required to publish and submit to EPA a report every 2 years that describes program activities and expenditures and includes the most recent audit of the State's program. [1452(g)(4)] Sec. 130

NEEDS SURVEY: EPA is required to perform an assessment of the capital improvement needs of all eligible public water systems, including Native American systems, and submit a report within 180 days of passage of the Act. Addi- tional surveys will be conducted every 4 years thereafter. [1452(h)] Sec. 130

WATER CONSERVATION: Within two years of enactment of the 1996 amendments to the SDWA, EPA must publish guidelines for water conservation plans. Within a year of pubication of the guidelines, a State may, as a condition of receiving a DWSRF loan, require a water system to submit a water conservation plan. [1455(a),(b)] Sec. 134

V. OTHER PROVISIONS

PUBLIC WATER SUPPLY SUPERVISION

TIME FRAME FOR STATE PRIMACY: In order to maintain primary enforcement responsibility for regulations promulgated under the SDWA, States must adopt regulations that are no less stringent than federal regulations within 2 years of the date of promulgation of the federal regulations. EPA may grant an extension of 2 additional years if EPA determines that the extension is necessary and justified. [1413(a)(1)] Sec. 112(a)

ADMINISTRATIVE PENALTY REQUIREMENT FOR PRIMACY: As a condition of primacy, States must have the authority for administrative penalties. Specifically, for systems serving more than 10,000 persons, States must be able to assess not less than $1,000 per day per violation. For smaller systems, States must have authority which is adequate to ensure compliance. The State may establish a maximum amount of administrative penalties which may be imposed on a public water system. [1413(a)] Sec. 113(b)

INTERIM PRIMACY: States with up-to-date primacy programs are considered to have interim primacy for new regulations promulgated by EPA beginning on the effective date of the State regulations adopted and submitted by the State, and ending at such time as EPA disapproves a State program. [Section 1413(c)] Sec. 112(a)

PUBLIC WATER SYSTEM SUPERVISION GRANT: The authorization for carrying out State Public Water System Supervision Programs (PWSS) is increased to $100 million for each of fiscal years 1997-2003. [1443(a)] Sec. 124

EPA PRIMACY: EPA is given authority to use funds from a State's portion of the Public Water System Supervision Program grant to implement the program where the State does not have primary enforcement responsibility (primacy). EPA may cover a shortfall in funds by using a portion of a State's DWSRF allocation to carry out primary enforcement authority. If such funds are used, EPA must carry out all activities required of a State. [1443(a)] Sec. 124, [1452(a)(1)(F)] Sec. 130

FEDERAL AGENCIES

SOVEREIGN IMMUNITY: Contains a clear waiver of sovereign immunity for federal agencies with respect to all federal, State and local requirements. Provides EPA with authority to issue an administrative penalty order if EPA finds that a federal agency has violated an applicable requirement of this title. The penalty may not exceed $25,000 per day per violation. Funds collected by a State from the federal government in fines or penalties must be used by the State for projects designed to improve or protect the environment or defray the costs of environmental protection or enforcement. [1447] Sec. 129(a)

REVIEW OF ORDERS: Any interested party may obtain review in US District Court of an administrative penalty order issued by EPA to a federal agency. [1447] Sec. 129(a)

CITIZEN ACTION: A citizen may bring an action for the collection of a penalty against a

federal agency that fails to pay a penalty by the date which is 18 months after the effective date of the final order. The citizen is required to notify the Attorney General and the affected federal agency 60 days before the suit is filed. [1447] Sec. 129(b)

MISCELLANEOUS

LEAD LEACHING STANDARD: If a voluntary standard for the leaching of lead from new plumbing fittings and fixtures is not established within one year of the effective date of the Act, then EPA must promulgate regulations setting a performance based standard for lead leaching levels from such components. (Note: A voluntary standard is now in place.) [1417] Sec. 118

LEAD PROHIBITION: Two years after enactment, it becomes illegal for any pipe or plumbing fixture that is not lead-free to be introduced into commerce. The exception is pipes used in manufacturing or industrial processing. It will also be illegal, two years after enactment, to sell solder or flux that is not lead-free. Solder that is not lead-free may be sold if it bears a prominent label stating that it is illegal to use it in the installation or repair of plumbing providing water for human consumption. [1417] Sec. 118

LIMITED ALTERNATIVE TO FILTRATION: States may allow unfiltered water systems with surface water sources to use treatment other than filtration. In order to qualify for alternative treatment, a water system must have an uninhabited, undeveloped watershed in consolidated ownership and have control over access to and activities in the watershed. The alternative treatment must ensure greater removal or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection required by section 1412 (b)(7)(C). [1412(b)(7)(C)] Sec. 106

GRANTS FOR ALASKA NATIVE VILLAGES: The Administrator is authorized to make grants to the State of Alaska to pay 50 percent of the cost of improving sanitation for rural and Alaska Native villages. Grants will be for development and construction of public water and wastewater systems and also for training, technical assistance, and educational programs. The State may use up to 4 percent of the amount of the grant for related administrative expenses. EPA is required to consult with the State of Alaska to prioritize the needs of individual villages. Authorization for this provision is at $15,000,000 for each FY'97-2000. Title III--Sec. 303

RELATIONSHIP OF GRANTS TO DWSRF FUND: A "Sense of the Congress" states that appropriations for grants should not be provided for watershed protection in New York City's watersheds, sanitation improvements at colonias, or sanitation improvements for Alaska Native Villages if such appropriations would prevent adequate funding for state revolving loan funds. Title III--Sec 304

WASHINGTON AQUEDUCT: Congress grants consent for the District of Columbia, Arlington County, VA and the city of Falls Church to establish an entity to operate, maintain and manage the Washington Aqueduct. The Secretary of the Army is required to develop a plan, within 1 year, for the transfer of the Washington Aqueduct to a non-Federal entity. The Corps of Engineers is authorized to borrow up to $29 million in 1997, 424 million for 1998, and $22 million for 1999 to carry out capital improvements until the time of transfer. (Title III--Sec.

304.) The Secretary of the Army may not pass on the costs of an enforcement penalty to the customers of the Washington Aqueduct system. [1447] Sec.129(c)

DRINKING WATER FUNDS FOR COLONIAS: EPA and other appropriate Federal agencies are authorized to award grants to Arizona, California, New Mexico, and Texas, to provide assistance (up to 50% of project costs) to colonias where the residents are subject to a significant health risk attributable to the lack of access to an adequate and affordable drinking water system. Appropriations of $25,000,000 for each of the fiscal years 1997 through 1999 is authorized. [1456] Sec. 135

WASTEWATER FUNDS FOR COLONIAS: The Administrator is authorized to make grants for planning, design, construction, or improvement of sewers, treatment works, and appropriate connections for wastewater treatment for colonias. Grants cannot exceed 50 percent of the cost of carrying out any project. $25 million is authorized for this provision in fiscal years 1997 through 1999. Title III--Sec. 307

ZEBRA MUSSEL CONTROL: The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 is amended to include Lake Champlain at 16 U.S.C. 4701(a). Provision references zebra mussel control in Lake Champlain. Title III--Sec. 308

DEFINITIONAL CHANGE FOR ANALYTIC METHODS: Modifies the pre-existing requirement that national primary drinking water regulations (NPDWR) contain quality control and testing procedures for compliance purposes to now require "accepted methods for" quality control and testing procedures. After the promulgation of a NPDWR, EPA is allowed to "add equally effective" quality control and testing procedures through guidance published in the Federal Register. [1401] Sec. 101(a)

DEFINITION OF COMMUNITY/NONCOMMUNITY SYSTEM: "Community water system" is defined as a public water system that has at least 15 service connections or serves 25 persons year-round. "Noncommunity water system" is defined as a public water system that is not a community water system. [1401] Sec. 101(a)

OPEN CONVEYANCES: The general definition of "public water system" (PWS) is broadened from water systems that deliver water through pipes to include systems that use "construct-ed conveyances." However, certain connections that might otherwise qualify a system as a public water system under the broadened definition are excluded from consideration where: the water is not used for "residential uses"; alternative water is provided for drinking and cooking; or water for drinking, cooking, and bathing is treated (centrally or by point of entry). Alternative or treated water must provide a level of health protection equivalent to the applicable standard(s). A transition period of 2 years is provided for compliance. [1401] Sec. 101(b)

RETURN FLOW: Repeals Section 3013 of PL 102-486 (Energy Act). Deletes Energy Act provision which encourages the use of heat exchange units. Title III

ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

(Title IV--does not amend the SDWA)

GRANT AUTHORITY: EPA may provide technical and financial assistance in the form of grants to States for water supply improvements and for source water quality programs consistent with Section 319 of the Clean Water Act (to address contaminants for the purpose of making supplies usable for water systems). Not more than 30% of funds appropriated may be used for Section 319 activities. Title IV

USE OF GRANTS: As a condition for receiving a grant, a State must ensure that assistance will be used in the most cost-effective manner. The Federal share of activities funded with grants shall be 50 percent. Title IV

FUNDING LEVELS: Annual funding of $25 million is authorized for grants for fiscal years 1997-2003. An additional $25 million is authorized for each fiscal year 1997-2003 if the appropriations for the Drinking Water DWSRF exceed 75% of the authorized level ($1 billion is authorized for the DWSRF). Title IV