

–CITE–

42 USC Sec. 300g–7 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part B – Public Water Systems

–HEAD–

Sec. 300g–7. Monitoring of contaminants

–STATUTE–

(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) of this

section 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.

–SOURCE–

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

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–7, 300j–13 of this title.

–End–

–CITE–

42 USC Sec. 300g–8 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part B – Public Water Systems

–HEAD–

Sec. 300g–8. Operator certification

–STATUTE–

(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) of this section, 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) of this section or that has been submitted in compliance with subsection (c) of this section 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) of this section shall allow the State to enforce such program in lieu of the guidelines under subsection (a) of this section 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.

—SOURCE—

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

—SECREf—

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j-12 of this title.

—End—

–CITE–

42 USC Sec. 300g–9 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part B – Public Water Systems

–HEAD–

Sec. 300g–9. Capacity development

–STATUTE–

(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; and

(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).

(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.

(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.

(e) Variances and exemptions

Based on information obtained under subsection (c)(3) of this section, 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 environmental 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1420, as added Pub. L. 104–182, title I, Sec. 119, Aug. 6, 1996, 110 Stat. 1647.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

–End–

–CITE–

42 USC Part C – Protection of Underground Sources of Drinking Water 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

PART C – PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 6939b, 9601 of this title; title 33 section 1345.

–End–

–CITE–

42 USC Sec. 300h 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h. Regulations for State programs

–STATUTE–

(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) of this section 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) of this section. 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.

(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) of this section) 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) of this section), 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) 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.

(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.

–SOURCE–

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

–REFTEXT–

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, Sec. 129(a), Aug. 6, 1996, 110 Stat. 1660.

–MISC1–

AMENDMENTS

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, Sec. 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, Sec. 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).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–1, 300h–4, 300j–2, 300j–6 of this title.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300h–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–1. State primary enforcement responsibility

–STATUTE–

(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) of this section 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) of this section) 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) of this section 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) of this section, if the Administrator determines under subsection (b)(3) of this section that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A) of this section, or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1) of this section, 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) of this section, or (2) which has been prescribed by the Administrator under subsection (c) of this section.

(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.

–SOURCE–

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

–MISC1–

AMENDMENTS

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

Subsec. (e). Pub. L. 99–339, Sec. 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.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300h–2, 300h–4, 300j–2, 6924 of this title.

–End–

–CITE–

42 USC Sec. 300h–2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–2. Enforcement of program

–STATUTE–

(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) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(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) of this section requiring the person to comply with such requirement or the Administrator shall commence a civil action under subsection (b) of this section.

(b) Civil and criminal actions

Civil actions referred to in paragraphs (1) and (2) of subsection (a) of this section 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) of this section. 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) of this section –

(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 nature 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.

–SOURCE–

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

–MISC1–

AMENDMENTS

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

Subsec. (a)(1). Pub. L. 99–339, Sec. 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, Sec. 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, Sec. 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, Sec. 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.

–End–

–CITE–

42 USC Sec. 300h-3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h-3. Interim regulation of underground injections

–STATUTE–

(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 ending on the date on which the applicable underground injection control program covering

such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b) of this section. 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) of this section 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) of this section 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) of this section, (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) of this section, 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.

–SOURCE–

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

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h–2, 300h–6 of this title.

–End–

–CITE–

42 USC Sec. 300h–4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–4. Optional demonstration by States relating to oil or natural gas

–STATUTE–

(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) of this section, in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) of this section 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.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1425, as added Pub. L.

96-502, Sec. 2(a), Dec. 5, 1980, 94 Stat. 2737; amended Pub. L.

99-339, title II, Sec. 201(a), June 19, 1986, 100 Stat. 653.)

—MISC1—

AMENDMENTS

1986 – Subsec. (a)(1). Pub. L. 99-339 inserted "or natural gas storage operations, or" after "production".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h-2, 300j-2 of this title.

–End–

–CITE–

42 USC Sec. 300h-5 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h-5. Regulation of State programs

–STATUTE–

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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1426, as added Pub. L. 99–339, title II, Sec. 201(b), June 19, 1986, 100 Stat. 653; amended Pub. L. 104–66, title II, Sec. 2021(f), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title V, Sec. 501(f)(2), Aug. 6, 1996, 110 Stat. 1691.)

–MISC1–

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."

–End–

–CITE–

42 USC Sec. 300h–6 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–6. Sole source aquifer demonstration program

–STATUTE–

(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) of this section.

(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 entity (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 or 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) of this section and that a demonstration program for the area would provide protection for ground water quality consistent with the objectives stated in subsection (f) of this section. 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) of this section, 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].

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1427, as added and amended Pub. L. 99–339, title II, Sec. 203, title III, Sec. 301(f), June 19, 1986, 100 Stat. 657, 664; Pub. L. 104–66, title II, Sec. 2021(g), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, Sec. 120(a), title V, Sec. 501(b)(2), (f)(3), Aug. 6, 1996, 110 Stat. 1650, 1691.)

–REFTEXT–

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, Sec. 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (Sec. 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, Sec. 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (Sec. 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, as amended, which is classified principally to chapter 103 (Sec. 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.

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182, Sec. 501(f)(3), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b)(1). Pub. L. 104–182, Sec. 120(a)(1), struck out "not later than 24 months after June 19, 1986," after "by the Administrator".

Subsec. (k). Pub. L. 104–182, Sec. 501(b)(2), substituted "this section" for "this subsection".

Subsec. (m). Pub. L. 104–182, Sec. 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).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–14 of this title.

–End–

–CITE–

42 USC Sec. 300h–7 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–7. State programs to establish wellhead protection areas

–STATUTE–

(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) of this section 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) of this section is not adequate to protect public water systems as required by subsection (a) of this section 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) of this section 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) of this section.

(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) of this section. 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) of this section shall be subject to and comply with all requirements of the State program developed according to subsection (a)(4) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1428, as added and amended

Pub. L. 99–339, title II, Sec. 205, title III, Sec. 301(e), June

19, 1986, 100 Stat. 660, 664; Pub. L. 104–182, title I, Secs.

120(b), 132(b), title V, Sec. 501(f)(4), Aug. 6, 1996, 110 Stat.

1650, 1674, 1692.)

–REFTEXT–

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, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified

generally to chapter 26 (Sec. 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, Sec. 2, Oct. 21, 1976, 90 Stat. 2795,

which is classified generally to chapter 82 (Sec. 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 (Sec. 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.

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182, Sec. 501(f)(4), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b). Pub. L. 104–182, Sec. 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, Sec. 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, Sec. 132(b)(2). See below.

Pub. L. 104–182, Sec. 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, Sec. 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, Sec. 132(b)(3), substituted "is disapproved" for "is inadequate".

Subsec. (k). Pub. L. 104–182, Sec. 120(b), inserted table item relating to fiscal years 1992 through 2003.

1986 – Subsec. (k). Pub. L. 99–339, Sec. 301(e), added subsec. (k).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300j–12, 300j–13, 300j–14 of this title.

–End–

–CITE–

42 USC Sec. 300h–8 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part C – Protection of Underground Sources of Drinking Water

–HEAD–

Sec. 300h–8. State ground water protection grants

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1429, as added Pub. L.

104–182, title I, Sec. 131, Aug. 6, 1996, 110 Stat. 1672.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–8 of this title.

–End–

–CITE–

42 USC Part D – Emergency Powers 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

PART D – EMERGENCY POWERS

–End–

–CITE–

42 USC Sec. 300i 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

Sec. 300i. Emergency powers

–STATUTE–

(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) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1431, as added Pub. L. 93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 99–339, title II, Sec. 204, June 19, 1986, 100 Stat. 660; Pub. L. 104–182, title I, Sec. 113(d), Aug. 6, 1996, 110 Stat. 1636; Pub. L. 107–188, title IV, Sec. 403(2), June 12, 2002, 116 Stat. 687.)

–MISC1–

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, Sec. 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, Sec. 204(3), struck out "willfully" after "person who" and substituted "subject to a civil penalty of not to exceed" for "fined not more than".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300i–2, 7412, 9606 of this title.

–End–

–CITE–

42 USC Sec. 300i–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

Sec. 300i–1. Tampering with public water systems

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1432, as added Pub. L.

99–339, title I, Sec. 108, June 19, 1986, 100 Stat. 651; amended

Pub. L. 104–182, title V, Sec. 501(f)(5), Aug. 6, 1996, 110 Stat.

1692; Pub. L. 107–188, title IV, Sec. 403(3), June 12, 2002, 116

Stat. 687.)

–MISC1–

AMENDMENTS

2002 – Subsec. (a). Pub. L. 107–188, Sec. 403(3)(A), substituted

"20 years" for "5 years".

Subsec. (b). Pub. L. 107–188, Sec. 403(3)(B), substituted "10

years" for "3 years".

Subsec. (c). Pub. L. 107–188, Sec. 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.

–End–

–CITE–

42 USC Sec. 300i–2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

Sec. 300i–2. Terrorist and other intentional acts

–STATUTE–

(a) Vulnerability assessments

(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts

intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to –

(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 concerns.

(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

(B) December 31, 2003, in the case of systems serving a

population of 50,000 or more but less than 100,000.

(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5.

(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that –

(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

(C) no copy of an assessment, or part of an assessment, or

information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than –

(i) to an individual designated by the Administrator under paragraph (5),

(ii) for purposes of section 300j–4 of this title or for actions under section 300i of this title, or

(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section, shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18 applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United

States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

(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 the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a) of this section, that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.)

when preparing or revising an emergency response plan under this subsection.

(c) Record maintenance

Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) of this section for 5 years after such plan has been certified to the Administrator under this section.

(d) Guidance to small public water systems

The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed 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.

(e) Funding

(1) There are authorized to be appropriated to carry out this section not more than \$160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) of this section and to community water systems for expenses and

contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a) of this section. Such basic security enhancements may include, but shall not be limited to the following:

(A) the purchase and installation of equipment for detection of intruders;

(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 rekeying of doors and locks;

(E) improvements to electronic, computer, or other automated systems and remote security systems;

(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

(G) improvements in the use, storage, or handling of various chemicals; and

(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

(3) The Administrator may use not more than \$5,000,000 from the

funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to 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 security need.

(4) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d) of this section.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1433, as added Pub. L. 107–188, title IV, Sec. 401, June 12, 2002, 116 Stat. 682.)

–REFTEXT–

REFERENCES IN TEXT

The Emergency Planning and Community Right-to-Know Act, referred to in subsec. (b), probably means the Emergency Planning and Community Right-to-Know Act of 1986, Pub. L. 99–499, title III, Oct. 17, 1986, 100 Stat. 1728, which is classified generally to chapter 116 (Sec. 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.

–SECREP–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g–3 of this title.

–End–

–CITE–

42 USC Sec. 300i–3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

Sec. 300i–3. Contaminant prevention, detection and response

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1434, as added Pub. L.
107-188, title IV, Sec. 402, June 12, 2002, 116 Stat. 685.)

–CHANGE–

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease
Control and Prevention by Pub. L. 102-531, title III, Sec. 312,
Oct. 27, 1992, 106 Stat. 3504.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300i-4 of this title.

–End–

–CITE–

42 USC Sec. 300i-4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part D – Emergency Powers

–HEAD–

Sec. 300i-4. Supply disruption prevention, detection and response

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1435, as added Pub. L. 107-188, title IV, Sec. 402, June 12, 2002, 116 Stat. 686.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300i-3 of this title.

–End–

–CITE–

42 USC Part E – General Provisions 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

PART E – GENERAL PROVISIONS

–End–

–CITE–

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j. Assurances of availability of adequate supplies of
chemicals necessary for treatment of water

–STATUTE–

(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) of this section, 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) of this section, 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) of this section 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) of this section 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) of this section, 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1441, as added Pub. L. 93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1680; amended Pub. L. 95–190, Sec. 7, Nov. 16, 1977, 91 Stat. 1396; Pub. L. 96–63, Sec. 3, Sept. 6, 1979, 93 Stat. 411; Pub. L. 99–339, title III, Sec. 301(d), June 19, 1986, 100 Stat. 664; Pub. L. 104–182, title V, Sec. 501(c), Aug. 6, 1996, 110 Stat. 1691.)

–MISC1–

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".

–EXEC–

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 [this section]. 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 [formerly set out as a note under section 2153 of Title 50, Appendix, War and National Defense], for the allocation of similar chemicals or substances.

Gerald R. Ford.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300g–3 of this title.

–End–

–CITE–

42 USC Sec. 300j–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–1. Research, technical assistance, information, training

of personnel

–STATUTE–

(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; and

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

(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 affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. 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 are authorized to be appropriated to carry out subsection (b) of this section not more than \$35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.

(e) Technical assistance

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. Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. 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. 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 1997 through 2003. 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. 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1442, as added Pub. L. 93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1682; amended Pub. L. 95–190, Secs. 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, Sec. 1, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96–502, Sec. 5, Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99–339, title I, Sec. 107, title III, Secs. 301(a), (g), 304(a), June 19, 1986, 100 Stat. 651, 663, 665, 667; Pub. L. 104–66, title II, Sec. 2021(h), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104–182, title I, Secs. 121, 122, Aug. 6, 1996, 110 Stat. 1651; Pub. L. 107–188, title IV, Sec. 403(4), June 12, 2002, 116 Stat. 687.)

–MISC1–

AMENDMENTS

2002 – Subsec. (b). Pub. L. 107–188, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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 compiled by the National Water Commission and others shall be utilized to the extent possible."

1986 – Subsec. (e). Pub. L. 99–339, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Secs. 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, Sec. 3(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10), (11). Pub. L. 95-190, Sec. 3(e)(1), added pars. (10) and (11).

Subsec. (b)(3)(C). Pub. L. 95–190, Sec. 10(b), substituted

"300j–2(c)" for "300j–2(d)".

Subsecs. (c), (d). Pub. L. 95–190, Secs. 3(b), 4, added subsecs.

(c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 95–190, Secs. 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.

SCIENTIFIC RESEARCH REVIEW

Section 202 of Pub. L. 104–182 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 and Science 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

Section 203 of Pub. L. 104–182 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

Section 304(b) of Pub. L. 99–339 provided that: "The Administrator of the Environmental Protection Agency shall conduct a comparative health effects assessment, using available data, to compare the public health effects (both positive and negative) associated with water treatment chemicals and their byproducts to the public health effects associated with contaminants found in public water supplies. Not later than 18 months after the date of the enactment of this Act [June 19, 1986], the Administrator shall submit a report to the Congress setting forth the results of such assessment."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–1, 300j–3b, 300j–12 of this title.

–End–

–CITE–

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-2. Grants for State programs

–STATUTE–

(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 reallocated 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 \$100,000,000 for each of fiscal years 1997 through 2003.

(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 1997 through 2003, \$15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1443, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1684; amended Pub. L. 95-190, Secs. 2(b), (c), 5(a), Nov. 16, 1977, 91 Stat. 1393, 1395; Pub. L. 96-63, Sec. 2, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96-502, Secs. 2(c), 4(d), Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99-339, title III, Secs. 301(b), (c), 302(d), June 19, 1986, 100 Stat. 664, 666; Pub. L. 104-182, title I, Secs. 120(c), 124, 128, Aug. 6, 1996, 110 Stat. 1651, 1653, 1659.)

AMENDMENTS

1996 – Subsec. (a)(7). Pub. L. 104–182, Sec. 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, Sec. 124(2), added pars.

(8) and (9).

Subsec. (b)(5). Pub. L. 104–182, Sec. 120(c), inserted table item relating to fiscal years 1992 through 2003.

Subsec. (d). Pub. L. 104–182, Sec. 128, added subsec. (d).

1986 – Subsec. (a)(2). Pub. L. 99–339, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 5(a), added pars. (5) and (6). Former par. (5) redesignated (7).

Subsec. (a)(7). Pub. L. 95–190, Secs. 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, Sec. 2(c), inserted provisions authorizing appropriations for fiscal years 1978 and 1979.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g–6, 300j–1, 300j–12 of this title.

–End–

–CITE–

42 USC Sec. 300j–3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–3. Special project grants and guaranteed loans

–STATUTE–

(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 66 2/3 per

centum of the total cost of construction of any facility and 75

per centum of any other costs, as determined by the

Administrator.

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

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

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

(c) 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1444, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1685; amended Pub. L. 99-339, title I, Sec. 101(c)(3), June 19, 1986, 100 Stat. 646.)

–MISC1–

AMENDMENTS

1986 – Subsec. (d). Pub. L. 99-339 struck out "(including interim regulations)" before "prescribed" in first sentence.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–3b of this title.

–End–

–CITE–

42 USC Sec. 300j–3a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–3a. Grants to public sector agencies

–STATUTE–

(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 66 2/3 per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

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

(3) Grants under this section shall not be made for any project unless the Administrator determines, after 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.

—SOURCE—

(Pub. L. 95-155, Sec. 5, Nov. 8, 1977, 91 Stat. 1258; Pub. L. 95-477, Sec. 7(a)(1), Oct. 18, 1978, 92 Stat. 1511.)

—COD—

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.

–MISC1–

AMENDMENTS

1978 – Subsec. (a)(2). Pub. L. 95–477 inserted "agricultural use or" after "drinking and".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 7(a)(2) of Pub. L. 95–477 provided that: "This subsection [amending this section] shall become effective October 1, 1978."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–3b of this title.

–End–

–CITE–

42 USC Sec. 300j–3b 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–3b. Contaminant standards or treatment technique guidelines

–STATUTE–

(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.

–SOURCE–

(Pub. L. 95–477, Sec. 7(b), Oct. 18, 1978, 92 Stat. 1511.)

–REFTEXT–

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, Sec. 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.

–COD–

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.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300j–3c 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–3c. National assistance program for water infrastructure and watersheds

–STATUTE–

(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) of this section.

(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.

(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.

—SOURCE—

(Pub. L. 104-182, title IV, Sec. 401, Aug. 6, 1996, 110 Stat. 1690.)

–COD–

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.

–End–

–CITE–

42 USC Sec. 300j–4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–4. Records and inspections

–STATUTE–

(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) of this section.

(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) of this section 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 1997 through 2003.

(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) of this section, 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) of this section 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) of this section or to allow the Administrator, the Comptroller General, or representatives of either, to enter and conduct any audit or inspection authorized by subsection (b) of this section 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 of this subchapter. 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 of this subchapter.

(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) of this section or subsection

(a)(2) of this section 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) of this section. 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) of this section;

(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

(C) 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.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1445, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1686; amended Pub. L. 95-190, Sec. 12(c), (d), Nov. 16, 1977, 91 Stat. 1398; Pub. L. 99-339, title I, Sec. 106, title III, Sec. 301(h), June 19, 1986, 100 Stat. 650, 665; Pub. L. 100-572, Sec. 5, Oct. 31, 1988, 102 Stat. 2889; Pub. L. 104-182, title I, Secs. 111(b), 125(a), (c), (d), 126, Aug. 6, 1996, 110 Stat. 1633, 1653, 1656-1658.)

—MISC1—

AMENDMENTS

1996 – Subsec. (a)(1). Pub. L. 104–182, Sec. 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, Sec. 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, Sec. 126, added subsec. (g).

Subsec. (h). Pub. L. 104–182, Sec. 111(b), added subsec. (h).

Subsec. (i). Pub. L. 104–182, Sec. 125(d), added subsec. (i).

1988 – Subsec. (f). Pub. L. 100–572 added subsec. (f).

1986 – Subsec. (a)(1). Pub. L. 99–339, Sec. 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, Sec. 106(b), added pars. (2) to (7).

Subsec. (a)(8). Pub. L. 99–339, Sec. 301(h), added par. (8).

Subsec. (c). Pub. L. 99–339, Sec. 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, Sec. 12(c), inserted provisions relating to evaluating and advising of health risks of unregulated contaminants.

Subsec. (b)(1). Pub. L. 95–190, Sec. 12(d), designated existing provisions as cls. (A) and (B) and added cl. (C) and reference to such cls. (A) to (C).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-1, 300g-3, 300i-2, 300j-12, 7412, 9606 of this title.

–End–

–CITE–

42 USC Sec. 300j-5 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-5. National Drinking Water Advisory Council

–STATUTE–

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

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1446, as added Pub. L.

93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L.

104–182, title I, Sec. 127, Aug. 6, 1996, 110 Stat. 1659.)

–REFTEXT–

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (c), was amended generally by Pub. L. 94–22, Sec. 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (d), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

–MISC1–

AMENDMENTS

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.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93–641, Sec. 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, Sec. 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300f of this title.

–FOOTNOTE–

(1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300j-6 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-6. Federal agencies

–STATUTE–

(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 opportunity 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) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1447, as added Pub. L.

93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1688; amended Pub. L.

95–190, Sec. 8(a), (d), Nov. 16, 1977, 91 Stat. 1396, 1397; Pub. L.

104–182, title I, Sec. 129(a), (c), Aug. 6, 1996, 110 Stat. 1660,

1662.)

–REFTEXT–

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.

–MISC1–

AMENDMENTS

1996 – Subsecs. (a) to (d). Pub. L. 104–182, Sec. 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, Sec. 129(c), added subsec. (e).

1977 – Subsec. (a). Pub. L. 95–190, Sec. 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, Sec. 8(d), added subsec. (c).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300h, 300j–8 of this title.

–FOOTNOTE–

(!1) So in original. Probably should not be capitalized.

–End–

–CITE–

42 USC Sec. 300j–7 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–7. Judicial review

–STATUTE–

(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.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1448, as added Pub. L.

93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1689; amended Pub. L.

99–339, title III, Sec. 303, June 19, 1986, 100 Stat. 667; Pub. L.

104–182, title I, Sec. 113(c), Aug. 6, 1996, 110 Stat. 1636.)

–MISC1–

AMENDMENTS

1996 – Subsec. (a). Pub. L. 104–182, Sec. 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, Sec. 113(c)(1), substituted "any other final action" for "any other action".

1986 – Subsec. (a)(1). Pub. L. 99–339, Sec. 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, Sec. 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."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-1, 300h-2, 300j-8 of this title.

–End–

–CITE–

42 USC Sec. 300j-8 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-8. Citizen's civil action

–STATUTE–

(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 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) of this section 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) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1449, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1690; amended Pub. L. 95-190, Sec. 8(c), Nov. 16, 1977, 91 Stat. 1397; Pub. L. 104-182, title I, Sec. 129(b), Aug. 6, 1996, 110 Stat. 1662.)

–REFTEXT–

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.

–MISC1–

AMENDMENTS

1996 – Subsec. (a)(3). Pub. L. 104-182, Sec. 129(b)(1), added par. (3).

Subsec. (b)(3). Pub. L. 104-182, Sec. 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.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h-2 of this title.

–FOOTNOTE–

(11) So in original. Probably should be section "300j-6(b)".

–End–

–CITE–

42 USC Sec. 300j-9 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-9. General provisions

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1450, as added Pub. L. 93–523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1691; amended Pub. L. 98–620, title IV, Sec. 402(38), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 103–437, Sec. 15(a)(2), Nov. 2, 1994, 108 Stat. 4591.)

–REFTEXT–

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 of this title.

–COD–

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, Sec. 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

–MISC1–

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.

–CHANGE–

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.

–MISC2–

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.

–End–

–CITE–

42 USC Sec. 300j–10 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–10. Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation

–STATUTE–

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.

–SOURCE–

(Pub. L. 95-190, Sec. 11(b), Nov. 16, 1977, 91 Stat. 1398.)

–REFTEXT–

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 (Sec. 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.

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

–COD–

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.

–MISC1–

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, Sec. 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

–End–

–CITE–

42 USC Sec. 300j–11 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–11. Indian Tribes

–STATUTE–

(a) In general

Subject to the provisions of subsection (b) of this section, 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1451, as added Pub. L. 99–339, title III, Sec. 302(a), June 19, 1986, 100 Stat. 665; amended Pub. L. 104–182, title V, Sec. 501(f)(6), Aug. 6, 1996, 110 Stat. 1692.)

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300h–1 of this title.

–FOOTNOTE–

(!1) So in original. Probably should be capitalized.

–End–

–CITE–

42 USC Sec. 300j–12 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–12. State revolving loan funds

–STATUTE–

(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 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) of this section, 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) of this section 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 reallocated by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallocated 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

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. Financial assistance under this section may be used by a public water system only for expenditures (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. The funds 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. The funds 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. 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.

(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.

(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

Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) of this section 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).

(2) Total amount of subsidies

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.

(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) of this section 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 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) of this section), 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;

(C) 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

(D) 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) of this section, 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) of this section; 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

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. 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 –

(A) for public water system supervision programs under section 300j–2(a) of this title;

(B) to administer or provide technical assistance through source water protection programs;

(C) to develop and implement a capacity development strategy under section 300g–9(c) of this title; and

(D) for an operator certification program for purposes of meeting the requirements of section 300g–8 of this title, if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) 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

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.

(i) Indian Tribes

(1) In general

1 1/2 percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2) of this section.

(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) of this section, 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.

(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) of this section. 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) of this section, 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) of this section 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 for fiscal years 1996 and 1997 to delineate and assess 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.

(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 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

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. 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 (prior to the fiscal year 2004). 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 appropriated pursuant to subsection (m) of this section for each of the fiscal years 1997 through 2003 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.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1452, as added Pub. L. 104-182, title I, Sec. 130, Aug. 6, 1996, 110 Stat. 1662.)

—REFTEXT—

REFERENCES IN TEXT

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.

–MISC1–

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 [this subchapter] 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. 107–73, title III, Nov. 26, 2001, 115 Stat. 685, provided in part: "That for fiscal year 2002, State authority under section 302(a) of Public Law 104–182 [set out as a note below] shall remain in effect".

Section 302 of Pub. L. 104–182 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 [this section] 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.)."

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300f, 300g–4, 300g–5, 300g–8, 300g–9, 300j–1, 300j–2, 300j–3c, 300j–4, 300j–13, 300j–14, 300j–15, 300j–18 of this title.

–FOOTNOTE–

(!1) So in original. Probably should be preceded by "section".

–End–

–CITE–

42 USC Sec. 300j–13 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–13. Source water quality assessment

–STATUTE–

(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.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1453, as added Pub. L. 104-182, title I, Sec. 132(a), Aug. 6, 1996, 110 Stat. 1673.)

—REFTEXT—

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, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (Sec. 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.

—SECREf—

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300g-7, 300h-7, 300j-12, 300j-14 of this title.

–End–

–CITE–

42 USC Sec. 300j–14 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–14. Source water petition program

–STATUTE–

(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, 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) of this section.

(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 contributing 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 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.

(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) of this section, 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) of this section.

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.);

- (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) of this section, 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 (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) of this section. The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d) of this section.

(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) of this section;

(B) recommend procedures for the submission of petitions developed under subsection (a) of this section;

(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) of this section.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 1997 through 2003. Each State with a plan for a program approved under subsection (b) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1454, as added Pub. L. 104–182, title I, Sec. 133(a), Aug. 6, 1996, 110 Stat. 1675.)

–REFTEXT–

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, Sec. 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. Title VI of the Act is classified generally to subchapter VI (Sec. 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, as amended. Chapter 2 of subtitle D of title XII of the Act was classified generally to part II (Sec. 3838 et seq.) of subchapter IV of chapter 58 of Title 16, Conservation, prior to repeal by Pub. L. 104–127, title III, Sec. 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.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

–End–

–CITE–

42 USC Sec. 300j–15 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–15. Water conservation plan

–STATUTE–

(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) of this section, 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1455, as added Pub. L. 104-182, title I, Sec. 134, Aug. 6, 1996, 110 Stat. 1679.)

–End–

–CITE–

42 USC Sec. 300j-16 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j-16. Assistance to colonias

–STATUTE–

(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) of this section 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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1456, as added Pub. L.
104–182, title I, Sec. 135, Aug. 6, 1996, 110 Stat. 1679.)

–End–

–CITE–

42 USC Sec. 300j–17 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–17. Estrogenic substances screening program

–STATUTE–

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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1457, as added Pub. L.

104–182, title I, Sec. 136, Aug. 6, 1996, 110 Stat. 1680.)

–End–

–CITE–

42 USC Sec. 300j–18 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part E – General Provisions

–HEAD–

Sec. 300j–18. Drinking water studies

–STATUTE–

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1458, as added Pub. L. 104–182, title I, Sec. 137, Aug. 6, 1996, 110 Stat. 1680.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–12 of this title.

–End–

–CITE–

42 USC Part F – Additional Requirements To Regulate
Safety of Drinking Water 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking
Water

–HEAD–

PART F – ADDITIONAL REQUIREMENTS TO REGULATE SAFETY OF DRINKING WATER

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 300j-4 of this title.

–End–

–CITE–

42 USC Sec. 300j-21 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking
Water

–HEAD–

Sec. 300j-21. Definitions

–STATUTE–

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 contains 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, means the permanent removal of the water cooler and the installation of a lead free water cooler.

(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.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1461, as added Pub. L. 100–572, Sec. 2(a), Oct. 31, 1988, 102 Stat. 2884; amended Pub. L. 103–382, title III, Sec. 391(p), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 104–182, title V, Sec. 501(f)(7), Aug. 6, 1996, 110 Stat. 1692; Pub. L. 107–110, title X, Sec. 1076(x), Jan. 8, 2002, 115 Stat. 2093.)

–REFTEXT–

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, as amended, which is classified principally to chapter 25A (Sec. 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.

–MISC1–

AMENDMENTS

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, Sec. 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, Sec. 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)".

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.

–End–

–CITE–

42 USC Sec. 300j–22 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking Water

–HEAD–

Sec. 300j–22. Recall of drinking water coolers with lead-lined tanks

–STATUTE–

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)).

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1462, as added Pub. L. 100–572, Sec. 2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104–182, title V, Sec. 501(f)(8), Aug. 6, 1996, 110 Stat. 1692.)

–REFTEXT–

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in text, is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, as amended, which is classified generally to chapter 47 (Sec. 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.

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182 made technical amendment to section

catchline and first word of text.

–End–

–CITE–

42 USC Sec. 300j–23 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking
Water

–HEAD–

Sec. 300j–23. Drinking water coolers containing lead

–STATUTE–

(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) of this section 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) of this section 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) of this section. 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).

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1463, as added Pub. L. 100–572, Sec. 2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104–182, title V, Sec. 501(f)(9), Aug. 6, 1996, 110 Stat. 1692.)

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300j–22, 300j–24 of this title.

–End–

–CITE–

42 USC Sec. 300j–24 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking Water

–HEAD–

Sec. 300j–24. Lead contamination in school drinking water

–STATUTE–

(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 schools in determining the source and degree of

lead contamination in school drinking water supplies and in remediating such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, 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) of this section, together with the list of drinking water coolers published under section 300j-23(a) of this title.

(d) Remedial action program

(1) Testing and remediating lead contamination

Within 9 months after October 31, 1988, each State shall establish a program, consistent with this section, to assist local educational agencies in testing for, and remediating, lead contamination in drinking water from coolers and from other

sources of lead contamination at schools under the jurisdiction of such agencies.

(2) Public availability

A copy of the results of any testing under paragraph (1) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such testing results.

(3) Coolers

In the case of drinking water coolers, such program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that within 15 months after October 31, 1988, all such water coolers in schools under the jurisdiction of such agencies are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water.

–SOURCE–

(July 1, 1944, ch. 373, title XIV, Sec. 1464, as added Pub. L. 100–572, Sec. 2(a), Oct. 31, 1988, 102 Stat. 2886; amended Pub. L. 104–182, title V, Sec. 501(f)(10), Aug. 6, 1996, 110 Stat. 1692.)

–MISC1–

AMENDMENTS

1996 – Pub. L. 104–182 made technical amendment to section catchline and subsec. (a) designation.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300j–25 of this title.

–End–

–CITE–

42 USC Sec. 300j–25 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking Water

–HEAD–

Sec. 300j–25. Federal assistance for State programs regarding lead contamination in school drinking water

–STATUTE–

(a) School drinking water programs

The Administrator shall make grants to States to establish and carry out State programs under section 300j–24 of this title to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from drinking water coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies. Such grants may be used by States to reimburse local educational agencies for expenses incurred after

October 31, 1988, for such testing and remedial action.

(b) Limits

Each grant under this section shall be used by the State for testing water coolers in accordance with section 300j-24 of this title, for testing for lead contamination in other drinking water supplies under section 300j-24 of this title, or for remedial action under State programs under section 300j-24 of this title.

Not more than 5 percent of the grant may be used for program administration.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section not more than \$30,000,000 for fiscal year 1989, \$30,000,000 for fiscal year 1990, and \$30,000,000 for fiscal year 1991.

—SOURCE—

(July 1, 1944, ch. 373, title XIV, Sec. 1465, as added Pub. L.

100-572, Sec. 2(a), Oct. 31, 1988, 102 Stat. 2887; amended Pub. L.

104-182, title V, Sec. 501(d), (f)(11), Aug. 6, 1996, 110 Stat.

1691, 1692.)

—MISC1—

AMENDMENTS

1996 – Pub. L. 104-182, Sec. 501(f)(11), made technical amendment to section catchline and subsec. (a) designation.

Subsec. (b). Pub. L. 104-182, Sec. 501(d), substituted "by the State" for "as by the State".

—End—

—CITE—

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XII – SAFETY OF PUBLIC WATER SYSTEMS

Part F – Additional Requirements To Regulate Safety of Drinking
Water

–HEAD–

Sec. 300j-26. Certification of testing laboratories

–STATUTE–

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.(11)

–SOURCE–

(Pub. L. 100-572, Sec. 4, Oct. 31, 1988, 102 Stat. 2889.)

–COD–

CODIFICATION

Section 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.

–FOOTNOTE–

(!1) So in original. Probably should be "section."

–End–

–CITE–

42 USC SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH
RESPECT TO BREAST AND CERVICAL CANCERS 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–SECREf–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1396a of this title.

–End–

–CITE–

42 USC Sec. 300k 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

Sec. 300k. Establishment of program of grants to States

–STATUTE–

(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) of this section 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) of this section 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) of this section 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 2000 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 2000. 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.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1501, as added Pub. L.

101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 409; amended Pub. L.

103–43, title XX, Sec. 2008(c)(1), June 10, 1993, 107 Stat. 211;

Pub. L. 103–183, title I, Sec. 101(a), (b), (f), (g)(1), Dec. 14,

1993, 107 Stat. 2227–2229; Pub. L. 105–340, title II, Sec. 203(a), (b), Oct. 31, 1998, 112 Stat. 3194; Pub. L. 105–392, title IV, Sec. 401(b)(5), Nov. 13, 1998, 112 Stat. 3587.)

–REFTEXT–

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XVIII of the Act is classified generally to part B (Sec. 1395j et seq.) of subchapter XVIII of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

A prior section 300k, Pub. L. 93–641, Sec. 2, Jan. 4, 1975, 88 Stat. 2226, set forth Congressional findings relating to national health planning and development, prior to omission in connection with repeal of former section 300k–1 et seq. of this title.

A prior section 1501 of act July 1, 1944, ch. 373, title XV, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2227; amended Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 101(a)(1)(A), (2), (3), 93 Stat. 593; Dec. 17, 1980, Pub. L. 96–538, title III, Sec. 301, 94 Stat. 3190, which related to guidelines for national health policy, was classified to section 300k–1 of this title, prior to repeal by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Prior sections 300k–2 and 300k–3 were repealed by Pub. L. 99–660,

title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300k-2, act July 1, 1944, ch. 373, title XV, Sec. 1502, as added Jan. 4, 1975, Pub. L. 93-641, Sec. 3, 88 Stat. 2227; amended Nov. 9, 1978, Pub. L. 95-619, title III, Sec. 303(a), 92 Stat. 3248; Oct. 4, 1979, Pub. L. 96-79, title I, Secs. 102(a), 103(a), (b), 93 Stat. 594, 595, related to national health priorities and strengthening competition in supply of services.

Section 300k-3, act July 1, 1944, ch. 373, title XV, Sec. 1503, as added Jan. 4, 1975, Pub. L. 93-641, Sec. 3, 88 Stat. 2228; amended Aug. 1, 1977, Pub. L. 95-83, title I, Sec. 106(a), 91 Stat. 384; July 10, 1979, Pub. L. 96-32, Sec. 7(g), 93 Stat. 84; Oct. 4, 1979, Pub. L. 96-79, title I, Sec. 102(b), 93 Stat. 594; Oct. 17, 1979, Pub. L. 96-88, title V, Sec. 509(b), 93 Stat. 695, related to National Council on Health Planning and Development.

AMENDMENTS

1998 – Subsec. (a)(2). Pub. L. 105-340, Sec. 203(a), inserted "and support services such as case management" before semicolon at end.

Subsec. (b)(1). Pub. L. 105-340, Sec. 203(b)(1), substituted "through grants to public and nonprofit private entities and through contracts with public and private entities." for "through grants to, and contracts with, public or nonprofit private entities."

Subsec. (b)(2). Pub. L. 105-340, Sec. 203(b)(2), added par. (2) and struck out heading and text of former par. (2). Text read as

follows: "In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) of this section through entering into contracts with private entities that are not nonprofit entities."

Subsecs. (c), (d). Pub. L. 105–392 redesignated subsec. (c), relating to coordinating committee regarding year 2000 health objectives, as (d).

1993 – Subsec. (a). Pub. L. 103–183, Sec. 101(g)(1), substituted "Control and Prevention" for "Control" in introductory provisions.

Subsec. (b). Pub. L. 103–183, Sec. 101(a), substituted

"paragraphs (2) and (3)" for "paragraph (2)" in par. (1), added pars. (2) and (3), and struck out heading and text of former par.

(2). Text read as follows: "In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) of this section through entering into contracts with private entities. The amount paid by a State to a private entity under the preceding sentence for a screening procedure may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act if payment were made under such part for furnishing the procedure to a woman enrolled under such part."

Pub. L. 103–43, Sec. 2008(c)(1), designated existing provisions as par. (1), inserted par. heading, substituted "may, subject to paragraph (2), expend" for "may expend", and added par. (2).

Subsec. (c). Pub. L. 103–183, Sec. 101(f), added subsec. (c)

relating to coordinating committee regarding year 2000 health objectives.

Pub. L. 103–183, Sec. 101(b), added subsec. (c) relating to special consideration for certain States.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–392 deemed to have taken effect immediately after enactment of Pub. L. 103–183, see section 401(e) of Pub. L. 105–392, set out as a note under section 242m of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300l, 300l–1, 300m, 300n, 300n–1, 300n–2, 300n–3, 300n–4, 300n–4a of this title.

–End–

–CITE–

42 USC Sec. 300l 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

–HEAD–

Sec. 300l. Requirement of matching funds

–STATUTE–

(a) In general

The Secretary may not make a grant under section 300k of this

title unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b) of this section) toward such costs in an amount equal to not less than \$1 for each \$3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

(b) Determination of amount of non-Federal contribution

(1) In general

Non-Federal contributions required in subsection (a) of this section may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Maintenance of effort

In making a determination of the amount of non-Federal contributions for purposes of subsection (a) of this section, the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 300k of this title for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

(3) Inclusion of relevant non-Federal contributions for medicaid

In making a determination of the amount of non-Federal contributions for purposes of subsection (a) of this section, the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] by the State involved toward the purpose described in paragraphs (1) and (2) of section 300k(a) of this title.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1502, as added Pub. L. 101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 410.)

–REFTEXT–

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (Sec. 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

A prior section 300l, act July 1, 1944, ch. 373, title XV, Sec. 1511, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2229; amended Apr. 22, 1976, Pub. L. 94–278, title XI, Sec. 1106(a), 90 Stat. 416; Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(b), 91 Stat. 384; Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 104(a)(1), (b), 93 Stat. 595, 596, related to establishment of health service

areas, prior to repeal by Pub. L. 99-660, title VII, Sec. 701(a),

Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

A prior section 1502 of act July 1, 1944, ch. 373, title XV, was
classified to section 300k-2 of this title prior to repeal by Pub.

L. 99-660.

-End-

-CITE-

42 USC Sec. 300l-1 01/06/03

-EXPCITE-

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

-HEAD-

Sec. 300l-1. Requirement regarding medicaid

-STATUTE-

The Secretary may not make a grant under section 300k of this
title for a program in a State unless the State plan under title
XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the
State includes the screening procedures specified in subparagraphs
(A) and (B) of section 300m(a)(2) of this title as medical
assistance provided under the plan.

-SOURCE-

(July 1, 1944, ch. 373, title XV, Sec. 1502A, as added Pub. L.
102-531, title III, Sec. 307, Oct. 27, 1992, 106 Stat. 3495.)

-REFTEXT-

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (Sec. 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

–MISC1–

PRIOR PROVISIONS

Prior sections 300l–1 to 300l–5 were repealed by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300l–1, act July 1, 1944, ch. 373, title XV, Sec. 1512, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2232; amended Mar. 19, 1976, Pub. L. 94–237, Sec. 14(b), 90 Stat. 249; Oct. 12, 1976, Pub. L. 94–484, title IX, Sec. 902(a), 90 Stat. 2324; Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(c), (d), 91 Stat. 384; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 108(a)–(d)(1), (e), 109, 110(a)–(d)(1), (e)(1), (2)(A), (3), 111(a), (b), 112, 113(a), 114, 93 Stat. 601–607; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 935(d), 95 Stat. 571; Oct. 22, 1986, Pub. L. 99–514, Sec. 2, 100 Stat. 2095, related to composition and operation of health systems agencies.

Section 300l–2, act July 1, 1944, ch. 373, title XV, Sec. 1513, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2235; amended Mar. 19, 1976, Pub. L. 94–237, Sec. 14(a), 90 Stat. 249; Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(e)–(i), 91 Stat.

384, 385; July 10, 1979, Pub. L. 96–32, Sec. 7(m), 93 Stat. 84;
 Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 101(b)(1), 103(c),
 107(a), 110(e)(4), (f), 115(b)(1), (2), (c)(2), (d)(1), (2), (e),
 (f), (h), (i)(1), 118(a)(1), (b)(1), (c), 119(b), 120(a), 121,
 122(a), 123(c)(1)(B), 93 Stat. 593, 595, 600, 604, 607–610,
 620–625; Oct. 17, 1979, Pub. L. 96–88, title V, Sec. 509(b), 93
 Stat. 695; Jan. 2, 1980, Pub. L. 96–181, Sec. 15(b), 93 Stat. 1316;
 Oct. 7, 1980, Pub. L. 96–398, title VIII, Sec. 804(d), 94 Stat.
 1608; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 902(g)(4), 95
 Stat. 561, related to functions of health systems agencies.

Section 300l–3, act July 1, 1944, ch. 373, title XV, Sec. 1514,
 as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2239;
 amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(j), 91 Stat.
 385; Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 105(f), 93 Stat.
 598, provided for assistance to entities desiring to be designated
 as health systems agencies.

Section 300l–4, act July 1, 1944, ch. 373, title XV, Sec. 1515,
 as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2239;
 amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(k), 91 Stat.
 385; Dec. 19, 1977, Pub. L. 95–215, Sec. 6(a)(1), 91 Stat. 1507;
 Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 105(a)–(d)(1)(A), (2),
 (e), (g), (h), 93 Stat. 596–598; Oct. 17, 1979, Pub. L. 96–88,
 title V, Sec. 509(b), 93 Stat. 695, provided for designation of
 health systems agencies.

Section 300l–5, act July 1, 1944, ch. 373, title XV, Sec. 1516,
 as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2241;

amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 102(a), 91 Stat. 383; Dec. 19, 1977, Pub. L. 95–215, Sec. 6(a)(2), 91 Stat. 1507; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 106, 107(b), 127(a), 93 Stat. 598, 600, 629; Dec. 17, 1980, Pub. L. 96–538, title III, Sec. 302, 94 Stat. 3190; Aug. 13, 1981, Pub. L. 97–35, title IX, Secs. 933(a)(1), 934(a), 95 Stat. 570, 571, provided for planning grants to health systems agencies.

–End–

–CITE–

42 USC Sec. 300m 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

–HEAD–

Sec. 300m. Requirements with respect to type and quality of services

–STATUTE–

(a) Requirement of provision of all services by date certain

The Secretary may not make a grant under section 300k of this title unless the State involved agrees –

(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of

section 300k(a) of this title, including making available

screening procedures for both breast and cervical cancers;

(2) subject to subsection (b) of this section, to ensure that –

(A) in the case of breast cancer, both a physical examination

of the breasts and the screening procedure known as a

mammography are conducted; and

(B) in the case of cervical cancer, both a pelvic examination

and the screening procedure known as a pap smear are conducted;

(3) to ensure that, by the end of any second fiscal year of

payments pursuant to the grant, each of the services or

activities described in section 300k(a) of this title is

provided; and

(4) to ensure that not more than 40 percent of the grant is

expended to provide the services or activities described in

paragraphs (3) through (6) of such section.

(b) Use of improved screening procedures

The Secretary may not make a grant under section 300k of this

title unless the State involved agrees that, if any screening

procedure superior to a procedure described in subsection (a)(2) of

this section becomes commonly available and is recommended for use,

any entity providing screening procedures pursuant to the grant

will utilize the superior procedure rather than the procedure

described in such subsection.

(c) Quality assurance regarding screening procedures

The Secretary may not make a grant under section 300k of this

title unless the State involved agrees that the State will, in

accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1503, as added Pub. L.

101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 410; amended Pub. L.

103–183, title I, Sec. 101(c)(1), Dec. 14, 1993, 107 Stat. 2227.)

–MISC1–

PRIOR PROVISIONS

Prior sections 300m to 300m–6 were repealed by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300m, act July 1, 1944, ch. 373, title XV, Sec. 1521, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2242; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(l), (m), 91 Stat. 385; Dec. 19, 1977, Pub. L. 95–215, Sec. 6(b), 91 Stat. 1507; July 16, 1979, Pub. L. 96–33, 93 Stat. 86; Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 123(a), (b)(1)(A), (2), (d), (f), (g)(2), 93 Stat. 624–627; Oct. 17, 1979, Pub. L. 96–88, title V, Sec. 509(b), 93 Stat. 695; Jan. 2, 1980, Pub. L. 96–181, Sec. 15(b), 93 Stat. 1316; Dec. 17, 1980, Pub. L. 96–538, title III, Sec. 303(b), 94 Stat. 3190; Aug. 13, 1981, Pub. L. 97–35, title IX, Secs. 902(g)(5), 936(b), 95 Stat. 561, 572; Jan. 4, 1983, Pub. L. 97–414, Sec. 9(b), 96 Stat. 2064, provided for designation of State health planning and development agencies.

A prior section 1503 of act July 1, 1944, ch. 373, title XV, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2228; amended

Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(a), 91 Stat. 384;
July 10, 1979, Pub. L. 96–32, Sec. 7(g), 93 Stat. 84; Oct. 4, 1979,
Pub. L. 96–79, title I, Sec. 102(b), 93 Stat. 594; Oct. 17, 1979,
Pub. L. 96–88, title V, Sec. 509(b), 93 Stat. 695, which related to
National Council on Health Planning and Development, was classified
to section 300k–3 of this title.

Section 300m–1, act July 1, 1944, ch. 373, title XV, Sec. 1522,
as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2244;
amended 1978 Reorg. Plan No. 2, Sec. 102, eff. Jan. 1, 1979, 43
F.R. 36037, 92 Stat. 3783; Oct. 4, 1979, Pub. L. 96–79, title I,
Secs. 101(b)(2), 111(c), 115(b)(3), 117(b)(4), 120(b), 122(b),
123(c)(1)(A), (e)(1), 93 Stat. 594, 605, 607, 620, 622, 624, 625,
626; Oct. 17, 1979, Pub. L. 96–88, title V, Sec. 509(b), 93 Stat.
695, related to State administrative programs.

Section 300m–2, act July 1, 1944, ch. 373, title XV, Sec. 1523,
as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2246;
amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(n), 91 Stat.
385; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 115(c)(1)(A)–(C),
(i)(2), 117(b)(1), (2), 118(a)(2), (b)(2), 123(c)(2), (3), (e)(2),
(g)(1), 93 Stat. 607, 608, 610, 618, 619, 621, 625–627; Oct. 7,
1980, Pub. L. 96–398, title III, Sec. 303, 94 Stat. 1588, related
to State health planning and development functions.

Section 300m–3, act July 1, 1944, ch. 373, title XV, Sec. 1524,
as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2247;
amended Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 110(d)(2),
113(b), 115(a), (c)(1)(D), (d)(3), (g), (i)(2)–(4), 119(a), 124, 93

Stat. 604, 606–610, 621, 627; Jan. 2, 1980, Pub. L. 96–181, Sec. 15(b), 93 Stat. 1316; Dec. 17, 1980, Pub. L. 96–538, title III, Secs. 304, 305, 94 Stat. 3191; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 902(g)(6), 95 Stat. 561, related to composition and functions of Statewide Health Coordinating Councils.

Section 300m–4, act July 1, 1944, ch. 373, title XV, Sec. 1525, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 102(b), 91 Stat. 383; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 107(c), 127(b), 93 Stat. 600, 629; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 933(a)(2), 95 Stat. 570, provided for grants for State health planning and development.

Section 300m–5, act July 1, 1944, ch. 373, title XV, Sec. 1526, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95–83, title I, Secs. 102(c), 106(o), 91 Stat. 383, 385; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 107(d), 120(c), 127(c), 93 Stat. 600, 622, 629, provided for grants for rate regulation.

Section 300m–6, act July 1, 1944, ch. 373, title XV, Sec. 1527, as added Oct. 4, 1979, Pub. L. 96–79, title I, Sec. 117(a), 93 Stat. 614; amended Dec. 17, 1980, Pub. L. 96–538, title III, Secs. 306, 307, 94 Stat. 3191; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 949(c), 95 Stat. 578, related to certificate of need program.

AMENDMENTS

1993 – Subsecs. (c) to (e). Pub. L. 103–183 added subsec. (c) and struck out former subsecs. (c) which related to quality assurance

regarding screening for breast cancer, (d) which related to quality assurance regarding screening for cervical cancer, and (e) which related to issuance by Secretary of guidelines with respect to quality of mammography and cytological services.

TRANSITION RULE REGARDING MAMMOGRAPHIES

Section 101(c)(2) of Pub. L. 103–183 provided that: "With respect to the screening procedure for breast cancer known as a mammography, the requirements in effect on the day before the date of the enactment of this Act [Dec. 14, 1993] under section 1503(c) of the Public Health Service Act [subsec. (c) of this section] remain in effect (for an individual or facility conducting such procedures pursuant to a grant to a State under section 1501 of such Act [section 300k of this title]) until there is in effect for the facility a certificate (or provisional certificate) issued under section 354 of such Act [section 263b of this title]."

–SECFE–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300l–1 of this title.

–End–

–CITE–

42 USC Sec. 300n 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

–HEAD–

Sec. 300n. Additional required agreements

–STATUTE–

(a) Priority for low-income women

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 300k(a) of this title.

(b) Limitation on imposition of fees for services

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge –

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the woman involved; and

(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(c) Statewide provision of services

(1) In general

The Secretary may not make a grant under section 300k of this

title unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 450b of title 25).

(2) Waiver

The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 300k(a) of this title.

(3) Grants to tribes and tribal organizations

(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 300k(a) of this title. This subchapter applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such subchapter applies to a grant to a State under section 300k of this title (in relation to the jurisdiction of the State).

(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 300k of this title, the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have

been waived under paragraph (2).

(d) Relationship to items and services under other programs

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service –

- (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or
- (2) by an entity that provides health services on a prepaid basis.

(e) Coordination with other breast and cervical cancer programs

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

(f) Limitation on administrative expenses

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(g) Restrictions on use of grant

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

(h) Records and audits

The Secretary may not make a grant under section 300k of this title unless the State involved agrees that –

(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of, and accounting for, amounts received by the State under such section; and

(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

(i) Reports to Secretary

The Secretary may not make a grant under section 300k of this title unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1504, as added Pub. L.

101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 412; amended Pub. L.

103–183, title I, Sec. 101(d), Dec. 14, 1993, 107 Stat. 2228.)

–MISC1–

PRIOR PROVISIONS

A prior section 300n, act July 1, 1944, ch. 373, title XV, Sec.

1531, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2250;

amended Mar. 19, 1976, Pub. L. 94–237, Sec. 14(c), 90 Stat. 249;

Oct. 12, 1976, Pub. L. 94–484, title IX, Sec. 902(b), 90 Stat.

2324; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 104(c)(2),

108(d)(2), 117(b)(3), 126(a)(1), (b), 93 Stat. 596, 602, 619, 628;
Dec. 17, 1980, Pub. L. 96–538, title III, Secs. 308, 309, 94 Stat.
3192; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 936(a), 95 Stat.
572, defined terms applicable to this subchapter, prior to repeal
by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat.
3799, effective Jan. 1, 1987.

AMENDMENTS

1993 – Subsec. (c)(3). Pub. L. 103–183 added par. (3).

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300n–4, 1396a of this
title.

–End–

–CITE–

42 USC Sec. 300n–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

–HEAD–

Sec. 300n–1. Description of intended uses of grant

–STATUTE–

The Secretary may not make a grant under section 300k of this
title unless –

(1) the State involved submits to the Secretary a description

of the purposes for which the State intends to expend the grant;

(2) the description identifies the populations, areas, and

localities in the State with a need for the services or

activities described in section 300k(a) of this title;

(3) the description provides information relating to the

services and activities to be provided, including a description

of the manner in which the services and activities will be

coordinated with any similar services or activities of public and

private entities; and

(4) the description provides assurances that the grant funds

will be used in the most cost-effective manner.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1505, as added Pub. L.

101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 414; amended Pub. L.

103–43, title XX, Sec. 2008(c)(2), June 10, 1993, 107 Stat. 211;

Pub. L. 103–183, title I, Sec. 101(g)(2), Dec. 14, 1993, 107 Stat.

2229; Pub. L. 105–392, title IV, Sec. 401(b)(6), Nov. 13, 1998, 112

Stat. 3587.)

–MISC1–

PRIOR PROVISIONS

A prior section 300n–1, act July 1, 1944, ch. 373, title XV, Sec.

1532, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2251;

amended Oct. 8, 1976, Pub. L. 94–460, title I, Sec. 117(a), 90

Stat. 1954; Nov. 9, 1978, Pub. L. 95–619, title III, Sec. 303(b),

(c), 92 Stat. 3248; Oct. 4, 1979, Pub. L. 96–79, title I, Secs.

103(d), 116, 117(b)(5), 93 Stat. 595, 610, 620; Dec. 17, 1980, Pub.

L. 96-538, title III, Sec. 310, 94 Stat. 3192, provided for procedures and criteria for review of proposed health system changes, prior to repeal by Pub. L. 99-660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

AMENDMENTS

1998 – Par. (3). Pub. L. 105-392 struck out "nonprofit" before "private entities".

1993 – Par. (3). Pub. L. 103-183, Sec. 101(g)(2)(A), substituted "public and nonprofit private entities; and" for "public or nonprivate entities (and additionally, in the case of services and activities under section 300k(a)(1) of this title, with any similar services or activities of private entities); and".

Pub. L. 103-43 inserted before semicolon "(and additionally, in the case of services and activities under section 300k(a)(1) of this title, with any similar services or activities of private entities)".

Par. (4). Pub. L. 103-183, Sec. 101(g)(2)(B), inserted "will" after "grant funds".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-392 deemed to have taken effect immediately after enactment of Pub. L. 103-183, see section 401(e) of Pub. L. 105-392, set out as a note under section 242m of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300n-2 of this title.

–End–

–CITE–

42 USC Sec. 300n–2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

Sec. 300n–2. Requirement of submission of application

–STATUTE–

The Secretary may not make a grant under section 300k of this title unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 300n–1 of this title, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subchapter.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1506, as added Pub. L. 101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 414.)

–MISC1–

PRIOR PROVISIONS

A prior section 300n–2, act July 1, 1944, ch. 373, title XV, Sec. 1533, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2253, provided for technical assistance to health systems agencies and

State agencies, prior to repeal by Pub. L. 99-660, title VII, Sec.

701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

–End–

–CITE–

42 USC Sec. 300n-3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

Sec. 300n-3. Technical assistance and provision of supplies and
services in lieu of grant funds

–STATUTE–

(a) Technical assistance

The Secretary may provide training and technical assistance with
respect to the planning, development, and operation of any program
or service carried out pursuant to section 300k of this title. The
Secretary may provide such technical assistance directly or through
grants to, or contracts with, public and private entities.

(b) Provision of supplies and services in lieu of grant funds

(1) In general

Upon the request of a State receiving a grant under section
300k of this title, the Secretary may, subject to paragraph (2),
provide supplies, equipment, and services for the purpose of
aiding the State in carrying out such section and, for such

purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments

With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 300k of this title to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1507, as added Pub. L. 101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 414.)

–MISC1–

PRIOR PROVISIONS

A prior section 300n–3, act July 1, 1944, ch. 373, title XV, Sec. 1534, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2255; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 102(d), 91 Stat. 383; Oct. 4, 1979, Pub. L. 96–79, title I, Secs. 125, 127(d), 93 Stat. 628, 629; Aug. 13, 1981, Pub. L. 97–35, title IX, Sec. 933(a)(3), 95 Stat. 570, provided for developing new centers for health planning, prior to repeal by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300n-5 of this title.

–End–

–CITE–

42 USC Sec. 300n-4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

Sec. 300n-4. Evaluations and reports

–STATUTE–

(a) Evaluations

The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 300k of this title. Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 300k(a)(2) of this title and with section 300n(c) of this title.

(b) Report to Congress

The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 300n-5(a) (!1) of this title, and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection

(a) of this section during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this subchapter as the Secretary determines to be appropriate, including recommendations regarding compliance by the States with section 300k(a)(2) of this title and with section 300n(c) of this title.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1508, as added Pub. L. 101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 415; amended Pub. L. 103–183, title I, Sec. 101(e), Dec. 14, 1993, 107 Stat. 2228.)

–REFTEXT–

REFERENCES IN TEXT

Section 300n–5(a) of this title, referred to in subsec. (b), was in the original a reference to section 1509(a), meaning section 1509(a) of act July 1, 1944. Section 1509 was renumbered section 1510 by Pub. L. 103–183, title I, Sec. 102(a)(1), Dec. 14, 1993, 107 Stat. 2229.

–MISC1–

PRIOR PROVISIONS

A prior section 300n–4, act July 1, 1944, ch. 373, title XV, Sec. 1535, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 3, 88 Stat. 2256, provided for review by Secretary of operations of designated health systems agencies and State agencies, prior to repeal by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

AMENDMENTS

1993 – Subsec. (a). Pub. L. 103–183, Sec. 101(e)(1), inserted at end "Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 300k(a)(2) of this title and with section 300n(c) of this title."

Subsec. (b). Pub. L. 103–183, Sec. 101(e)(2), inserted before period at end ", including recommendations regarding compliance by the States with section 300k(a)(2) of this title and with section 300n(c) of this title".

–CHANGE–

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.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300n–4a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST
AND CERVICAL CANCERS

–HEAD–

Sec. 300n–4a. Supplemental grants for additional preventive health
services

–STATUTE–

(a) Demonstration projects

In the case of States receiving grants under section 300k of this
title, the Secretary, acting through the Director of the Centers
for Disease Control and Prevention, may make grants to not more
than 3 such States to carry out demonstration projects for the
purpose of –

(1) providing preventive health services in addition to the
services authorized in such section, including screenings
regarding blood pressure and cholesterol, and including health
education;

(2) providing appropriate referrals for medical treatment of
women receiving services pursuant to paragraph (1) and ensuring,
to the extent practicable, the provision of appropriate follow–up
services; and

(3) evaluating activities conducted under paragraphs (1) and
(2) through appropriate surveillance or program–monitoring
activities.

(b) Status as participant in program regarding breast and cervical cancer

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 300k of this title.

(c) Applicability of provisions of general program

This subchapter applies to a grant under subsection (a) of this section to the same extent and in the same manner as such subchapter applies to a grant under section 300k of this title.

(d) Funding

(1) In general

Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated \$3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003.

(2) Limitation regarding funding with respect to breast and cervical cancer

The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 300n-5(a) of this title for the fiscal year is equal to or greater than \$100,000,000.

—SOURCE—

(July 1, 1944, ch. 373, title XV, Sec. 1509, as added Pub. L. 103-183, title I, Sec. 102(a)(2), Dec. 14, 1993, 107 Stat. 2229;

amended Pub. L. 105–340, title II, Sec. 203(c)(1), Oct. 31, 1998,

112 Stat. 3194.)

–MISC1–

PRIOR PROVISIONS

A prior section 1509 of act July 1, 1944, was renumbered section 1510 and is classified to section 300n–5 of this title.

AMENDMENTS

1998 – Subsec. (d)(1). Pub. L. 105–340 substituted "2003" for "1998".

–End–

–CITE–

42 USC Sec. 300n–5 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIII – PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

–HEAD–

Sec. 300n–5. Funding for general program

–STATUTE–

(a) Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated \$50,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993, \$150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2003.

(b) Set-aside for technical assistance and provision of supplies and services

Of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 300n-3 of this title.

–SOURCE–

(July 1, 1944, ch. 373, title XV, Sec. 1510, formerly Sec. 1509, as added Pub. L. 101-354, Sec. 2, Aug. 10, 1990, 104 Stat. 415; renumbered Sec. 1510 and amended Pub. L. 103-183, title I, Secs. 102(a)(1), (b), 103, Dec. 14, 1993, 107 Stat. 2229, 2230; Pub. L. 105-340, title II, Sec. 203(c)(2), Oct. 31, 1998, 112 Stat. 3194.)

–MISC1–

PRIOR PROVISIONS

Prior sections 300n-5 and 300n-6 were repealed by Pub. L. 99-660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799, effective Jan. 1, 1987.

Section 300n-5, act July 1, 1944, ch. 373, title XV, Sec. 1536, as added Jan. 4, 1975, Pub. L. 93-641, Sec. 3, 88 Stat. 2257; amended Aug. 1, 1977, Pub. L. 95-83, title I, Sec. 106(p), (q), 91 Stat. 385; Oct. 4, 1979, Pub. L. 96-79, title I, Sec. 104(c)(1), 93 Stat. 596; Aug. 13, 1981, Pub. L. 97-35, title IX, Sec. 935(a), 95 Stat. 571; Jan. 4, 1983, Pub. L. 97-414, Sec. 8(p), 96 Stat. 2062, made special provisions for certain States and territories.

Section 300n-6, act July 1, 1944, ch. 373, title XV, Sec. 1537, as added Aug. 13, 1981, Pub. L. 97-35, title IX, Sec. 933(b), 95 Stat. 570, authorized appropriations for grants and contracts under

former sections 300l-5(a), 300m-4(a), and 300n-3(a) of this title.

AMENDMENTS

1998 – Subsec. (a). Pub. L. 105-340 substituted "2003" for "1998".

1993 – Pub. L. 103-183, Sec. 102(b), inserted "for general program" after "Funding" in section catchline.

Subsec. (a). Pub. L. 103-183, Sec. 103, struck out "and" after "1991," and inserted before period at end ", \$150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300n-4, 300n-4a of this title.

–End–

–CITE–

42 USC SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

–HEAD–

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

–SECREf–

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1395x of this title.

–End–

–CITE–

42 USC Secs. 300o to 300o–3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

–HEAD–

Secs. 300o to 300o–3. Repealed. Pub. L. 96–79, title II, Sec.

202(a), Oct. 4, 1979, 93 Stat. 632

–MISC1–

Sections 300o to 300o–3, act July 1, 1944, ch. 373, title XVI,

Secs. 1601–1604, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88

Stat. 2258–2260; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec.

106(r)–(v), 91 Stat. 385, were repealed by Pub. L. 96–79, title II,

Sec. 202(a), Oct. 4, 1979, 93 Stat. 632.

Section 300o related to statement of purpose.

Section 300o–1 provided for promulgation of regulations and
required provisions.

Section 300o–2 related to State medical facilities plans,
submission and approval of plans as prerequisite for approval of
project assistance applications, required provisions, and procedure
upon disapproval of plans.

Section 300o–3 provided for medical facility project
applications, covering in submission of applications, required
provisions, waivers, and projects subject to requirements, criteria

for approval, procedure for disapproval, amendment of approved applications, and review by health systems agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

–End–

–CITE–

42 USC Secs. 300p to 300p-3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

–HEAD–

Secs. 300p to 300p-3. Repealed. Pub. L. 96-79, title II, Sec.

201(a), Oct. 4, 1979, 93 Stat. 630

–MISC1–

Sections 300p to 300p-3, act July 1, 1944, ch. 373, title XVI,

Secs. 1610-1613, as added Jan. 4, 1975, Pub. L. 93-641, Sec. 4, 88

Stat. 2262-2264; amended Apr. 22, 1976, Pub. L. 94-278, title XI,

Sec. 1106(b), 90 Stat. 416; Aug. 1, 1977, Pub. L. 95-83, title I,

Secs. 103(a), 106(w), 91 Stat. 383, 385, were repealed by Pub. L.

96-79, title II, Sec. 201(a), Oct. 4, 1979, 93 Stat. 632.

Section 300p related to allotments to States for health resources development.

Section 300p-1 related to payments to States for approved medical

facility projects.

Section 300p-2 related to compliance provisions and withholding of payments for noncompliance.

Section 300p-3 authorized appropriations for allotments to States.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

-End-

-CITE-

42 USC Part A – Loans and Loan Guarantees 01/06/03

-EXPCITE-

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part A – Loans and Loan Guarantees

-HEAD-

PART A – LOANS AND LOAN GUARANTEES

-MISC1-

AMENDMENTS

1979 – Pub. L. 96-79, title II, Sec. 202(a), Oct. 4, 1979, 93

Stat. 632, repealed part A relating to purpose, State plan, and project approval, and comprising former sections 300o to 300o-3 of this title, and redesignated former part C as part A relating to loans and loan guarantees.

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300s, 300s–1 of this title.

–End–

–CITE–

42 USC Sec. 300q 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part A – Loans and Loan Guarantees

–HEAD–

Sec. 300q. Loan and loan guarantee authority

–STATUTE–

(a) Covered projects: duration; payment of principal and interest on loans for covered projects: duration; payments for reduction of interest rate

(1) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, make loans from the fund established under section 300q–2(d) of this title to any public or nonprofit private entity for projects for –

(A) the discontinuance of unneeded hospital services or facilities,

(B) the conversion of unneeded hospital services and facilities to needed health services and medical facilities, including outpatient medical facilities and facilities for long–term care;

(C) the renovation and modernization of medical facilities, particularly projects for the prevention or elimination of safety hazards, projects to avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities;

(D) the construction of new outpatient medical facilities; and

(E) the construction of new inpatient medical facilities in areas which have experienced (as determined by the Secretary) recent rapid population growth.

(2)(A) The Secretary, during the period ending September 30, 1982, may, in accordance with this part, guarantee to –

(i) non-Federal lenders for their loans to public and nonprofit private entities for medical facilities projects described in paragraph (1), and

(ii) the Federal Financing Bank for its loans to public and nonprofit private entities for such projects, payment of principal and interest on such loans.

(B) In the case of a guarantee of any loan to a public or nonprofit private entity under subparagraph (A)(i) which is located in an urban or rural poverty area, the Secretary may pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by not more than one half the net effective interest rate otherwise payable on such loan if the Secretary finds that without such assistance the project could not be undertaken.

(b) Amount of loans for medical facilities projects and such

projects in urban or rural poverty areas

The principal amount of a loan directly made or guaranteed under subsection (a) of this section for a medical facilities project, when added to any other assistance provided such project under part B, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under part B, may cover up to 100 per centum of such costs.

(c) Limitation on cumulative total of principal of outstanding loans

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) Administrative assistance of Department of Housing and Urban Development

The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

—SOURCE—

(July 1, 1944, ch. 373, title XVI, Sec. 1601, formerly Sec. 1620, as added Pub. L. 93-641, Sec. 4, Jan. 4, 1975, 88 Stat. 2264; amended Pub. L. 94-273, Sec. 2(21), Apr. 21, 1976, 90 Stat. 376;

Pub. L. 95–83, title I, Sec. 106(x)(1), Aug. 1, 1977, 91 Stat. 385; renumbered Sec. 1601 and amended Pub. L. 96–79, title II, Secs. 201(b)(1), 203(a)(1), (2), Oct. 4, 1979, 93 Stat. 630, 635.)

–MISC1–

PRIOR PROVISIONS

A prior section 1601 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88 Stat. 2258, was classified to section 300o of this title, prior to repeal by Pub. L. 96–79, Sec. 202(a).

AMENDMENTS

1979 – Subsec. (a). Pub. L. 96–79, Secs. 201(b)(1), 203(a)(2), added par. (1); substituted reference to section 1602(d) for 1622(d), set out in text as "section 300q–2(d) of this title"; incorporated in par. (2) former subsec. (b) provisions made applicable for period ending Sept. 30, 1982, previously covering period beginning July 1, 1974, and ending Sept. 30, 1978, extended provisions to public entities, struck out existing condition that applications for assistance under subchapter be approved under former section 300o–3 of this title, substituted in subpar. (2)(B) provision for payment of amounts sufficient to reduce by not more than one half net effective interest otherwise payable on the loan for prior provision for amounts sufficient to reduce by 3 per centum per annum net effective interest rate on the loan, and struck out provision granting contractual right of holder of a guaranteed loan to receive from the United States such interest payments.

Subsec. (b). Pub. L. 96–79, Sec. 201(b)(1), added subsec. (b) and incorporated existing provisions of subsec. (b) relating to loan guarantee authority for payment of principal and interest on loans for approved projects, their duration, and payments for reduction of interest rate in subsec. (a)(2) of this section.

1977 – Subsecs. (a), (b)(1). Pub. L. 95–83 substituted "September 30, 1978" for "September 30, 1977".

1976 – Subsecs. (a), (b)(1). Pub. L. 94–273 substituted "September" for "June".

EFFECTIVE DATE OF 1979 AMENDMENT

Section 204 of Pub. L. 96–79 provided that: "The amendments made by this title [enacting sections 300s, 300s–1, and 300s–6, amending this section and sections 201, 300q–2, 300r, 300s–1a, 300s–3, and 300s–5, and repealing sections 300o to 300o–3, 300p to 300p–3, 300q–1, and 300s of this title] shall take effect October 1, 1979, except that the amendments made by section 201(b) [amending this section and section 300q–2 of this title] respecting the payment of an interest subsidy for a loan or loan guarantee made under part A of title XVI of the Public Health Service Act [this part] shall apply only with respect to loans and loan guarantees made after October 1, 1979, and with respect to loans and loan guarantees made under such part before such date the Secretary shall continue to pay the interest subsidy authorized for such loans and loan guarantees before such date."

–SECRET–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q-2 of this title.

–End–

–CITE–

42 USC Sec. 300q-1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part A – Loans and Loan Guarantees

–HEAD–

Sec. 300q-1. Repealed. Pub. L. 96-79, title II, Sec. 203(a)(1),

Oct. 4, 1979, 93 Stat. 635

–MISC1–

Section, act July 1, 1944, ch. 373, title XVI, Sec. 1621, as

added Jan. 4, 1975, Pub. L. 93-641, Sec. 4, 88 Stat. 2265, related

to allocation among States of total amount of principal, criteria,

availability of unobligated amounts, and reallotments.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96-79,

set out as an Effective Date of 1979 Amendment note under section

300q of this title.

–End–

–CITE–

42 USC Sec. 300q-2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part A – Loans and Loan Guarantees

–HEAD–

Sec. 300q–2. General provisions

–STATUTE–

(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability

(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such

payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States

(1) The Secretary may not approve a loan under this part unless –

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title with respect to a loan made for a project located in an urban or rural poverty area, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds

(1) The Secretary shall from time to time, but with due regard to

the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12 or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees –

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A) –

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d) of this section.

(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3)(A)(ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's

successor in interest) shall be included in the gross income of the purchaser or successor for the purpose of chapter 1 of title 26.

(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions

(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts –

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 300q(a)(2)(B) of this title on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c)(3)(B) of this section,

(E) for payment of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f) of this section.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his

operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary –

(A) to make payments of interest under section 300q(a)(2)(B) of this title,

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c)(3)(B) of this section,

(E) to make payments of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f) of this section,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable

maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which the securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Transfers to and additional capitalization of loan and loan guarantee fund

(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 291j-6 of this title shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) of this section there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980,

September 30, 1981, and September 30, 1982.

(f) Default prevention measures; terms and conditions;
implementation of reforms; foreclosures; protection of Federal
interest on default

(1) The Secretary may take such action as may be necessary to prevent a default on a loan made or guaranteed under this part or under subchapter IV of this chapter, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a medical facility shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(2) The Secretary may take such action, consistent with State law respecting foreclosure procedures, as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this part or under subchapter IV of this chapter, including selling real property pledged as security for such a loan or loan guarantee and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1602, formerly Sec. 1622, as added Pub. L. 93–641, Sec. 4, Jan. 4, 1975, 88 Stat. 2265; amended Pub. L. 95–83, title I, Sec. 106(x)(2), (y), Aug. 1, 1977, 91 Stat. 385; renumbered Sec. 1602 and amended Pub. L. 96–79, title II, Secs. 201(b)(2), (3), 203(a)(1), (3), (g), Oct. 4, 1979, 93 Stat. 631, 635; Pub. L. 97–414, Sec. 8(q), Jan. 4, 1983, 96 Stat. 2062; Pub. L. 99–514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095.)

–REFTEXT–

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in subsec. (f), is classified to section 291 et seq. of this title.

–COD–

CODIFICATION

In subsec. (d), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act" and "that Act", respectively, on authority of Pub. L. 97–258, Sec. 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

–MISC1–

PRIOR PROVISIONS

A prior section 1602 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88 Stat. 2258; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(r), (s), 91 Stat. 385, was classified to section 300o–1 of this title, prior to repeal by Pub. L. 96–79, title II, Sec. 202(a), Oct. 4, 1979, 93

Stat. 632.

AMENDMENTS

1986 – Subsec. (c)(5). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1983 – Subsec. (f)(2). Pub. L. 97–414 inserted "selling real property pledged as security for such a loan or loan guarantee and" after "including".

1979 – Subsec. (b)(2)(D). Pub. L. 96–79, Sec. 201(b)(2), substituted "minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title (with respect to a loan made for a project located in an urban or rural poverty area" for "minus 3 per centum per annum".

Subsec. (d)(1). Pub. L. 96–79, Sec. 203(a)(3), (g)(2), substituted in subpar. (C) reference to section "300q(a)(2)(B)" for "300q(b)(2)" of this title, and added subpar. (F).

Subsec. (d)(2). Pub. L. 96–79, Sec. 203(a)(3), (g)(3), substituted in subpar. (A) reference to section "300q(a)(2)(B)" for "300q(b)(2)" of this title, and added subpar. (F).

Subsec. (e)(2). Pub. L. 96–79, Sec. 201(b)(3), authorized appropriations for fiscal years ending Sept. 30, 1979 through 1982.

Subsec. (f). Pub. L. 96–79, Sec. 203(g)(1), added subsec. (f).

1977 – Subsec. (c)(5). Pub. L. 95–83, Sec. 106(y), added subsec. (c)(5).

Subsec. (e)(2). Pub. L. 95–83, Sec. 106(x)(2), substituted

provisions authorizing appropriations for fiscal years ending Sept.

30, 1977 and 1978, for prior such authorization for fiscal year

ending June 30, 1977.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, except that amendment of subsec. (b)(2)(D) respecting interest subsidy payments for loans or loan guarantees applicable only with respect to loans and loan guarantees made after Oct. 1, 1979, and that subsidies for such commitments made before Oct. 1, 1979, payable as authorized before Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300q of this title.

–End–

–CITE–

42 USC Part B – Project Grants 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part B – Project Grants

–HEAD–

PART B – PROJECT GRANTS

–MISC1–

AMENDMENTS

1979 – Pub. L. 96–79, title II, Secs. 201(a), 202(a), Oct. 4,
1979, 93 Stat. 630, 632, repealed part B relating to allotments,
and comprising former sections 300p to 300p–3 of this title, and
redesignated former part D as part B relating to project grants.

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 300q, 300s, 300s–1, 300s–3
of this title.

–End–

–CITE–

42 USC Sec. 300r 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part B – Project Grants

–HEAD–

Sec. 300r. Grants for construction or modernization projects

–STATUTE–

(a) Authority; objectives; eligible grantees; maximum amounts;
authorization of appropriations; availability of unobligated
funds

(1)(A) The Secretary may make grants for construction or
modernization projects designed to –

(i) eliminate or prevent in medical facilities imminent safety
hazards as defined by Federal, State, or local fire, building, or

life safety codes or regulations, or

(ii) avoid noncompliance by medical facilities with State or voluntary licensure or accreditation standards.

(B) A grant under subparagraph (A) may only be made to –

(i) a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for any medical facility owned or operated by the State or political subdivision; and

(ii) a nonprofit private entity for any medical facility owned or operated by the entity but only if the Secretary determines –

(I) the level of community service provided by the facility and the proportion of its patients who are unable to pay for services rendered in the facility is similar to such level and proportion in a medical facility of a State or political subdivision, and

(II) that without a grant under subparagraph (A) there would be a disruption of the provision of health care to low-income individuals.

(2) The amount of any grant under paragraph (1) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) \$40,000,000 for the fiscal year ending September 30, 1980, \$50,000,000 for the fiscal year ending September 30, 1981,

and \$50,000,000 for the fiscal year ending September 30, 1982.

Funds available for obligation under this subsection (as in effect before October 4, 1979) in the fiscal year ending September 30, 1979, shall remain available for obligation under this subsection in the succeeding fiscal year.

(b) Projects for medically underserved populations; eligible grantees; maximum amounts; authorization of appropriations

(1) The Secretary may make grants to public and nonprofit private entities for projects for (A) construction or modernization of outpatient medical facilities which are located apart from hospitals and which will provide services for medically underserved populations, and (B) conversion of existing facilities into outpatient medical facilities or facilities for long-term care to provide services for such populations.

(2) The amount of any grant under paragraph (1) may not exceed 80 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(3) There are authorized to be appropriated for grants under paragraph (1) \$15,000,000 for the fiscal year ending September 30, 1981, and \$15,000,000 for the fiscal year ending September 30, 1982.

—SOURCE—

(July 1, 1944, ch. 373, title XVI, Sec. 1610, formerly Sec. 1625, as added Pub. L. 93-641, Sec. 4, Jan. 4, 1975, 88 Stat. 2268;

amended Pub. L. 95–83, title I, Sec. 103(b), Aug. 1, 1977, 91 Stat. 383; renumbered Sec. 1610 and amended Pub. L. 96–79, title II, Secs. 201(c), 203(b), Oct. 4, 1979, 93 Stat. 631, 635.)

–MISC1–

PRIOR PROVISIONS

A prior section 1610 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88 Stat. 2262; amended Aug. 1, 1977, Pub. L. 95–83, title I, Sec. 106(w), 91 Stat. 385, was classified to section 300p of this title, prior to repeal by Pub. L. 96–79, title II, Sec. 201(a), Oct. 4, 1979, 93 Stat. 630.

AMENDMENTS

1979 – Subsec. (a). Pub. L. 96–79, Sec. 201(c), incorporated existing provisions in par. (1); inserted in subpar. (A) in cls. (i) and (ii) the phrases "in medical facilities" and "by medical facilities"; substituted in subpar. (B)(i) "for any medical facility owned or operated by the State or political subdivision" for "for a project described in the preceding sentence for any medical facility owned or operated by it"; added cl. (a)(1)(B)(ii); redesignated former subsec. (c) as par. (2); and added par. (3). Subsec. (b). Pub. L. 96–79, Sec. 201(c), inserted provisions respecting projects for medically underserved populations and struck out provisions respecting criteria for approval of applications under former section 300o–3 of this title. Subsec. (c). Pub. L. 96–79, Sec. 201(c), redesignated subsec. (c) as par. (2) of subsec. (a). Subsec. (d). Pub. L. 96–79, Sec. 201(c), struck out subsec. (d)

which related to provisions making available 22 per centum of sums appropriated under former section 300p-3 of this title for subsec.

(a) grants, including an additional appropriations authorization of \$67,500,000 for such grants for fiscal year ending Sept. 30, 1978.

1977 – Subsec. (d). Pub. L. 95-83 authorized additional grant appropriations of \$67,500,000 for fiscal year ending Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-79 effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as a note under section 300q of this title.

–End–

–CITE–

42 USC Part C – General Provisions 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

PART C – GENERAL PROVISIONS

–MISC1–

AMENDMENTS

1979 – Pub. L. 96-79, title II, Sec. 202(a), Oct. 4, 1979, 93

Stat. 632, redesignated former part E as part C relating to general provisions and former part C as part A.

–End–

–CITE–

42 USC Sec. 300s 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s. General regulations

–STATUTE–

The Secretary shall by regulation –

(1) prescribe the manner in which he shall determine the priority among projects for which assistance is available under part A or B, based on the relative need of different areas for such projects and giving special consideration –

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under part A or B general standards of construction, modernization, and equipment, which standards may vary on the basis of the class of facilities and their location; and

(3) prescribe the general manner in which each entity which receives financial assistance under part A or B or has received financial assistance under part A or B or subchapter IV of this chapter shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (3) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1620, as added Pub. L.

96–79, title II, Sec. 202(b), Oct. 4, 1979, 93 Stat. 632.)

–MISC1–

PRIOR PROVISIONS

A prior section 300s, act July 1, 1944, ch. 373, title XVI, Sec.

1630, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88 Stat. 2269,

provided for judicial review by the United States Court of Appeals,

prior to repeal by Pub. L. 96–79, Sec. 202(b), eff. Oct. 1, 1979.

A prior section 1620 of act July 1, 1944, was renumbered section

1601 by Pub. L. 96–79, title II, Sec. 203(a)(1), Oct. 4, 1979, 93

Stat. 635, and is classified to section 300q of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79,

set out as an Effective Date of 1979 Amendment note under section

300q of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300s–1 of this title.

–End–

–CITE–

42 USC Sec. 300s–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–1. Medical facility project applications

–STATUTE–

(a) Submissions

No loan, loan guarantee, or grant may be made under part A or B for a medical facilities project unless an application for such project has been submitted to and approved by the Secretary. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) Form; required provisions; waiver; projects subject to requirements

(1) An application for a medical facilities project shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall, except as provided in paragraph

(2), set forth –

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) in the case of an application for a grant, assurances satisfactory to the Secretary that (i) the applicant making the application would not be able to complete the project for which

the application is submitted without the grant applied for, and

(ii) in the case of a project to construct a new medical facility, it would be inappropriate to convert an existing medical facility to provide the services to be provided through the new medical facility;

(C) in the case of a project for the discontinuance of a service or facility or the conversion of a service or a facility, an evaluation of the impact of such discontinuance or conversion on the provision of health care in the health service area in which such service was provided or facility located;

(D) a description of the site of such project;

(E) plans and specifications therefor which meet the requirements of the regulations prescribed under section 300s(2) of this title;

(F) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(G) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(H) the type of assistance being sought under part A or B for the project;

(I) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 3145 of title 40;

(J) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(K) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2)(A) The Secretary may waive –

(i) the requirements of subparagraph (D) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 300s(2) of this title, and

(ii) the requirement of subparagraph (E) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B) of this paragraph.

(B) A project referred to in subparagraph (A) is a project –

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 300s–3 of this title or as designated by a health systems agency, and

(ii) for which the applicant seeks a loan under part A the principal amount of which does not exceed \$20,000.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1621, as added Pub. L.

96–79, title II, Sec. 202(b), Oct. 4, 1979, 93 Stat. 633.)

–COD–

CODIFICATION

In subsec. (b)(1)(I), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931 (40 U.S.C. 276a

– 276a–5, known as the Davis–Bacon Act)" 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, Sec. 5(c), Aug. 21,

2002, 116 Stat. 1303, the first section of which enacted Title 40,
Public Buildings, Property, and Works.

–MISC1–

PRIOR PROVISIONS

A prior section 300s–1 was redesignated 300s–1a and amended as
part of the general revision of this subchapter by Pub. L. 96–79.

A prior section 1621 of act July 1, 1944, as added Jan. 4, 1975,
Pub. L. 93–641, Sec. 4, 88 Stat. 2265, which related to the
allocation among States of the total amount of principal of loans
and loan guarantees, was classified to section 300q–1 of this
title, prior to repeal as part of the general revision of this
subchapter by Pub. L. 96–79.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79,
set out as an Effective Date of 1979 Amendment note under section
300q of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300s–1a, 300s–5 of this
title.

–End–

–CITE–

42 USC Sec. 300s–1a 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–1a. Recovery of expenditures under certain conditions

–STATUTE–

(a) Persons liable

If any facility with respect to which funds have been paid under this subchapter shall, at any time within 20 years after the completion of construction or modernization –

(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 300s–1 or 300t–12 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long–term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c) of this section.

(b) Notice to Secretary

The transferor of a facility which is sold or transferred as described in subsection (a)(1) of this section, or the owner of a facility the use of which is changed as described in subsection (a)(2) of this section, shall provide the Secretary written notice

of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

(c) Amount of recovery; interest; interest period

(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) of this section is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

(2)(A) After the expiration of –

(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section in the case of a facility which is sold or transferred or the use of which changes after July 18, 1984, or

(ii) thirty days after July 18, 1984, or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section, in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period

described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period beginning –

(i) in the case of a facility which was sold or transferred or the use of which changed before July 18, 1984, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) of this section.(!1)

(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b) of this section, upon the expiration of 180 days after the receipt of such notice, or

(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b) of this section, on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

(d) Waiver

(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred –

(A) has established an irrevocable trust –

(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 300s-1(b)(1)(K) of this title or the amount, determined under subsection (c) of this section, that the United States is entitled to recover, and

(ii) which will only be used by the entity to provide the care required by clause (ii) of section 300s-1(b)(1)(K) of this title; and

(B) will meet the obligation of the facility under clause (i) of section 300s-1(b)(1)(K) of this title.

(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) of this section with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

(e) Lien

The right of recovery of the United States under subsection (a) of this section shall not constitute a lien on any facility with respect to which funds have been paid under this subchapter.

—SOURCE—

(July 1, 1944, ch. 373, title XVI, Sec. 1622, formerly Sec. 1631, as added Pub. L. 93-641, Sec. 4, Jan. 4, 1975, 88 Stat. 2269; amended Pub. L. 94-278, title XI, Sec. 1106(c), Apr. 22, 1976, 90 Stat. 416; renumbered Sec. 1622 and amended Pub. L. 96-79, title II, Secs. 202(b), 203(c), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 98-369, div. B, title III, Sec. 2381(b), July 18, 1984, 98 Stat.

1114.)

–COD–

CODIFICATION

Section was formerly classified to section 300s–1 of this title prior to the general revision of this subchapter by Pub. L. 96–79.

–MISC1–

PRIOR PROVISIONS

A prior section 1622 of act July 1, 1944, as added Jan. 4, 1975, Pub. L. 93–641, Sec. 4, 88 Stat. 2265, was renumbered section 1602 as part of the general revision of this subchapter by Pub. L. 96–79 and is classified to section 300q–2 of this title.

AMENDMENTS

1984 – Pub. L. 98–369 amended section generally. Prior to the amendment, section read as follows:

"(a) If any facility constructed, modernized, or converted with funds provided under this subchapter is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds –

"(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 300s–1 or 300t–12 of this title or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

"(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the

transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

"(b) The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility in any State –

"(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) of this section with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 300m–3(c) of this title; or

"(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) of this section exceeds 90 per centum of the total

cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost."

1979 – Subsec. (a)(1)(A). Pub. L. 96–79, Sec. 203(c), substituted "section 300s–1 or 300t–12 of this title" for "section 300o–3 of this title".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

REGULATIONS AND PERSONNEL

Requirements for regulations and personnel to implement this section, see section 2381(c) of Pub. L. 98–369, set out as a note under section 291i of this title.

–FOOTNOTE–

(11) So in original. The period probably should be a comma.

–End–

–CITE–

42 USC Sec. 300s–2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–2. State supervision or control of operations of

facilities receiving funds

–STATUTE–

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee, the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this subchapter.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1623, formerly Sec. 1632, as added Pub. L. 93–641, Sec. 4, Jan. 4, 1975, 88 Stat. 2270; renumbered Sec. 1623, Pub. L. 96–79, title II, Sec. 202(b), Oct. 4, 1979, 93 Stat. 632.)

–End–

–CITE–

42 USC Sec. 300s–3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–3. Definitions

–STATUTE–

Except as provided in section 300t–12(e) of this title, for purposes of this subchapter –

(1) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional (!1) personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(2) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(3) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(4) The term "outpatient medical facility" means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients) –

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State,

or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(5) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of –

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(6) The term "facility for long-term care" means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services –

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients)

or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(7) The term "construction" means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(8) The term "cost" as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part B of this subchapter, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(9) The term "modernization" includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(10) The term "title," (!2) when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per

centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this subchapter, or (B) the term of repayment of a loan made or guaranteed under this subchapter in the case of a project assisted by a loan or loan guarantee.

(11) The term "medical facility" means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(12) The term "State Agency" means the State health planning and development agency of a State designated under subchapter XIII of this chapter.(13)

(13) The term "urban or rural poverty area" means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is –

(A) not more than the percentage of the total population of the

United States with incomes below the poverty level (as so defined) plus five per centum, and

(B) not less than such percentage minus five per centum.

(14) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

—SOURCE—

(July 1, 1944, ch. 373, title XVI, Sec. 1624, formerly Sec. 1633, as added Pub. L. 93–641, Sec. 4, Jan. 4, 1975, 88 Stat. 2270; amended Pub. L. 94–484, title IX, Sec. 905(b)(1), Oct. 12, 1976, 90 Stat. 2325; Pub. L. 95–83, title I, Sec. 106(z), Aug. 1, 1977, 91 Stat. 386; renumbered Sec. 1624 and amended Pub. L. 96–79, title II, Secs. 202(b), 203(e)(1), title III, Sec. 301(b), Oct. 4, 1979, 93 Stat. 632, 635, 640.)

—REFTEXT—

REFERENCES IN TEXT

Subchapter XIII of this chapter, referred to in par. (12), was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799.

—COD—

CODIFICATION

"Part B of this subchapter" substituted for "Part D of this subchapter" in par. (8) pursuant to the redesignation of former part D of this subchapter as B by Pub. L. 96–79, title II, Sec.

202(a), Oct. 4, 1979, 93 Stat. 632.

–MISC1–

AMENDMENTS

1979 – Pub. L. 96–79, Sec. 301(b), inserted "Except as provided in section 300t–12(e) of this title".

Pars. (1) to (16). Pub. L. 96–79, Sec. 203(e)(1), struck out pars. (1) and (2) which defined "State" and "Federal share" and redesignated pars. (3) through (16) as pars. (1) through (14), respectively.

1977 – Par. (14). Pub. L. 95–83 substituted "subchapter XIII" for "subchapter XII".

1976 – Par. (1). Pub. L. 94–484 defined "State" to include Northern Mariana Islands.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–79 effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as a note under section 300q of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 290dd–1, 300s–1, 6372 of this title.

–FOOTNOTE–

(!1) So in original. Probably should be "professional".

(!2) So in original. The comma probably should follow the ending quotations.

(!3) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300s–4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–4. Reporting and audit requirements for recipients

–STATUTE–

(a) Filing of financial statement with appropriate State Agency;
form and contents

In the case of any facility for which an allotment payment,
grant, loan, or loan guarantee has been made under this subchapter,
the applicant for such payment, grant, loan, or loan guarantee (or,
if appropriate, such other person as the Secretary may prescribe)
shall file at least annually with the State Agency for the State in
which the facility is located a statement which shall be in such
form, and contain such information, as the Secretary may require to
accurately show –

(1) the financial operations of the facility, and

(2) the costs of the facility of providing health services in
the facility and the charges made by the facility for providing
such services,

during the period with respect to which the statement is filed.

(b) Maintenance of records; access to books, etc., for audit and examination

(1) Each entity receiving Federal assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).

(c) Filing of financial statement with Secretary; form and contents
Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show –

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1625, formerly Sec. 1634,
as added Pub. L. 93-641, Sec. 4, Jan. 4, 1975, 88 Stat. 2273;
renumbered Sec. 1625, Pub. L. 96-79, title II, Sec. 202(b), Oct. 4,
1979, 93 Stat. 632.)

–MISC1–

PRIOR PROVISIONS

A prior section 1625 of act July 1, 1944, was renumbered section
1610 by Pub. L. 96-79, title II, Sec. 203(b), Oct. 4, 1979, 93
Stat. 635, and is classified to section 300r of this title.

–End–

–CITE–

42 USC Sec. 300s-5 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s-5. Availability of technical and other nonfinancial
assistance to eligible applicants

–STATUTE–

The Secretary shall provide (either through the Department of
Health and Human Services or by contract) all necessary technical
and other nonfinancial assistance to any public or other entity
which is eligible to apply for assistance under this subchapter to
assist such entity in developing applications to be submitted to

the Secretary under section 300s-1 or 300t-12 of this title. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this subchapter.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1626, formerly Sec. 1635, as added Pub. L. 93-641, Sec. 4, Jan. 4, 1975, 88 Stat. 2273; renumbered Sec. 1626 and amended Pub. L. 96-79, title II, Secs. 202(b), 203(f), Oct. 4, 1979, 93 Stat. 632, 635; Pub. L. 96-88, title V, Sec. 509(b), Oct. 17, 1979, 93 Stat. 695.)

–MISC1–

AMENDMENTS

1979 – Pub. L. 96-79, Sec. 203(f), substituted "other entity" for "other nonprofit entity" and "section 300s-1 or 300t-12 of this title" for "section 300o-3 of this title."

–CHANGE–

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

–MISC2–

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-79 effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as a note under section 300q of this title.

–End–

–CITE–

42 USC Sec. 300s–6 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part C – General Provisions

–HEAD–

Sec. 300s–6. Enforcement of assurances

–STATUTE–

The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this subchapter or which has received financial assistance under subchapter IV of this chapter or this subchapter, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall report such noncompliance to the health systems agency for the health service area in which such entity is located and the State health planning and development agency of the State in which the entity is located and shall take any action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only

if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within six months after the date on which the complaint was filed with the Secretary.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1627, as added Pub. L.

96–79, title II, Sec. 202(c), Oct. 4, 1979, 93 Stat. 634.)

–MISC1–

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 204 of Pub. L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

–End–

–CITE–

42 USC Part D – Area Health Services Development Funds 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part D – Area Health Services Development Funds

–HEAD–

PART D – AREA HEALTH SERVICES DEVELOPMENT FUNDS

–MISC1–

AMENDMENTS

1979 – Pub. L. 96–79, title II, Sec. 202(a), Oct. 4, 1979, 93

Stat. 632, redesignated former part F as part D relating to area health services development funds and former part D as part B.

–SECREf–

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 38 section 8156.

–End–

–CITE–

42 USC Sec. 300t 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part D – Area Health Services Development Funds

–HEAD–

Sec. 300t. Development grants for health systems agencies

–STATUTE–

(a) Eligible recipients; purpose of grants

The Secretary shall make in each fiscal year a grant to each health system agency –

(1) with which there is in effect a designation agreement under section 300l–4(c) (!1) of this title,

(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 300n–4(c) (!1) of this title, is organized and operated in the manner prescribed by section 300l–1(b) (!1) of this title and is

performing its functions under section 300l-2 (!1) of this title in a manner satisfactory to the Secretary, to enable the agency to establish and maintain an Area Health Service Development Fund from which it may make grants and enter into contracts in accordance with section 300l-2(c)(3) (!1) of this title.

(b) Determination of amounts; maximum amounts

(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) of this section shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) of this section to a health systems agency for any fiscal year may not exceed the product of \$1 and the population of the health service area for which such agency is designated.

(c) Applications; submission and approval as prerequisite; form and contents

No grant may be made under subsection (a) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) Authorization of appropriations

For the purpose of making payments pursuant to grants under subsection (a) of this section, there are authorized to be

appropriated \$25,000,000 for the fiscal year ending June 30, 1975, \$75,000,000 for the fiscal year ending June 30, 1976, \$120,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1981, and \$30,000,000 for the fiscal year ending September 30, 1982.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1640, as added Pub. L. 93–641, Sec. 4, Jan. 4, 1975, 88 Stat. 2273; amended Pub. L. 95–83, title I, Sec. 103(c), Aug. 1, 1977, 91 Stat. 383; Pub. L. 96–79, title I, Sec. 127(e), Oct. 4, 1979, 93 Stat. 629.)

–REFTEXT–

REFERENCES IN TEXT

Sections 300l–2, 300l–4, and 300n–4 of this title, referred to in subsec. (a), were repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799. Section 300l–1 of this title, referred to in subsec. (a)(3), was in the original a reference to section 1512 of act July 1, 1944, which was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 102–531, title III, Sec. 307, Oct. 27, 1992, 106 Stat. 3495, enacted section 1502A of act July 1, 1944, which is classified to section 300l–1 of this title.

–MISC1–

AMENDMENTS

1979 – Subsec. (d). Pub. L. 96–79 authorized appropriations of

\$20,000,000 for fiscal year ending Sept. 30, 1981, and \$30,000,000

for fiscal year ending Sept. 30, 1982.

1977 – Subsec. (d). Pub. L. 95–83 substituted "each for the

fiscal years ending September 30, 1977, and September 30, 1978" for

"for the fiscal year ending June 30, 1977".

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Part E – Program To Assist and Encourage Voluntary

Discontinuance of Unneeded Hospital

Services and Conversion of Unneeded

Hospital Services to Other Health

Services Needed by Community 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part E – Program To Assist and Encourage Voluntary Discontinuance of

Unneeded Hospital Services and Conversion of Unneeded

Hospital Services to Other Health Services Needed by

Community

–HEAD–

PART E – PROGRAM TO ASSIST AND ENCOURAGE VOLUNTARY DISCONTINUANCE

OF UNNEEDED HOSPITAL SERVICES AND CONVERSION OF UNNEEDED HOSPITAL

SERVICES TO OTHER HEALTH SERVICES NEEDED BY COMMUNITY

–MISC1–

AMENDMENTS

1979 – Pub. L. 96–79, title II, Sec. 202(a), title III, Sec.

301(a), Oct. 4, 1979, 93 Stat. 632, 636, added part E relating to program to assist and encourage voluntary discontinuance of unneeded hospital services and conversion of unneeded hospital services to other health services needed by the community and redesignated former part E as part C.

–End–

–CITE–

42 USC Sec. 300t–11 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part E – Program To Assist and Encourage Voluntary Discontinuance of Unneeded Hospital Services and Conversion of Unneeded Hospital Services to Other Health Services Needed by Community

–HEAD–

Sec. 300t–11. Grants and assistance for establishment of program

–STATUTE–

The Secretary shall, by April 1, 1980, establish a program under which –

(1) grants and technical assistance may be provided to hospitals in operation on October 4, 1979, (A) for the

discontinuance of unneeded hospital services, and (B) for the conversion of unneeded hospital services to other health services needed by the community; and

(2) grants may be provided to State Agencies designated under section 300m(b)(3) (!1) of this title for reducing excesses in resources and facilities of hospitals.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1641, as added Pub. L. 96–79, title III, Sec. 301(a), Oct. 4, 1979, 93 Stat. 636.)

–REFTEXT–

REFERENCES IN TEXT

Section 300m of this title, referred to in par. (2), was in the original a reference to section 1521 of act July 1, 1944, which was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 101–354, Sec. 2, Aug. 10, 1990, 104 Stat. 410, enacted section 1503 of act July 1, 1944, which is classified to section 300m of this title.

–MISC1–

UNNEEDED HOSPITAL SERVICES; STUDY AND REPORT OF EFFECT OF ELIMINATION

Section 302 of Pub. L. 96–79, as amended by Pub. L. 96–88, title V, Sec. 509(b), Oct. 17, 1979, 93 Stat. 695, which provided that the Secretary of Health and Human Services conduct a study of the effect on the elimination of unneeded hospital services made during the two fiscal year period ending Sept. 30, 1981, by the program authorized by this part, and not later than Jan. 1, 1982, report

the results of the study to Congress, was repealed by Pub. L.

97-414, Sec. 9(h), Jan. 4, 1983, 96 Stat. 2064.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300t-12 of this title.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300t-12 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part E – Program To Assist and Encourage Voluntary Discontinuance of

Unneeded Hospital Services and Conversion of Unneeded

Hospital Services to Other Health Services Needed by

Community

–HEAD–

Sec. 300t-12. Grants for discontinuance and conversion

–STATUTE–

(a) Terms and conditions; determination of amount; authorized uses

(1) A grant to a hospital under the program shall be subject to

such terms and conditions as the Secretary may by regulation

prescribe to assure that the grant is used for the purpose for

which it was made.

(2) The amount of any such grant shall be determined by the

Secretary. The recipient of such a grant may use the grant –

(A) in the case of a grantee which discontinues the provision of all hospital services or all inpatient hospital services or an identifiable part of a hospital facility which provides inpatient hospital services, for the liquidation of the outstanding debt on the facilities of the grantee used for the provision of the services or for the liquidation of the outstanding debt of the grantee on such identifiable part;

(B) in the case of a grantee which in discontinuing the provision of an inpatient hospital service converts or proposes to convert an identifiable part of a hospital facility used in the provision of the discontinued service to the delivery of other health services, for the planning, development (including construction and acquisition of equipment), and delivery of the health service;

(C) to provide reasonable termination pay for personnel of the grantee who will lose employment because of the discontinuance of hospital services made by the grantee, retraining of such personnel, assisting such personnel in securing employment, and other costs of implementing arrangements described in subsection (c) of this section; and

(D) for such other costs which the Secretary determines may need to be incurred by the grantee in discontinuing hospital services.

(b) Application; submission and approval; form; required

provisions; review by health systems agency; basis of State Agency's recommendations; urban or rural poverty population considerations; approval by Secretary; restrictions and special considerations

(1) No grant may be made to a hospital unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form and submitted in such manner as the Secretary may prescribe and shall include –

(A) a description of each service to be discontinued and, if a part of a hospital is to be discontinued or converted to another use in connection with such discontinuance, a description of such part;

(B) an evaluation of the impact of such discontinuance and conversion on the provision of health care in the health service area in which such service is provided;

(C) an estimate of the change in the applicant's costs which will result from such discontinuance and conversion; and

(D) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40, and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 3145 of title 40;

(E) such other information as the Secretary may require.

(2)(A) The health systems agency for the health service area in which is located a hospital applying for a grant under the program shall (i) in making the review of the applicant's application under section 3001-2(e) (!1) of this title, determine the need for each service or part proposed to be discontinued by the applicant, (ii) in the case of an application for the conversion of a facility, determine the need for each service which will be provided as a result of the conversion, and (iii) make a recommendation to the State Agency for the State in which the applicant is located respecting approval by the Secretary of the applicant's application.

(B) A State Agency which has received a recommendation from a health systems agency under subparagraph (A) respecting an application shall, after consideration of such recommendation, make a recommendation to the Secretary respecting the approval by the Secretary of the application. A State Agency's recommendation under this subparagraph respecting the approval of an application (i) shall be based upon (I) the need for each service or part proposed to be discontinued by the applicant, (II) in the case of an application for the conversion of a facility, the need for each service which will be provided as a result of the conversion, and (III) such other criteria as the Secretary may prescribe, and (ii) shall be accompanied by the health systems agency's recommendation made with respect to the approval of the application.

(C) In determining, under subparagraphs (A) and (B), the need for

the service (or services) or part proposed to be discontinued or converted by an applicant for a grant, a health systems agency and State Agency shall give special consideration to the unmet needs and existing access patterns of urban or rural poverty populations.

(3)(A) The Secretary may not approve an application of a hospital for a grant –

(i) if a State Agency recommended that the application not be approved, or

(ii) if the Secretary is unable to determine that the cost of providing inpatient health services in the health service area in which the applicant is located will be less than if the inpatient health services proposed to be discontinued were not discontinued.

(B) In considering applications of hospitals for grants the Secretary shall consider the recommendations of health systems agencies and State Agencies and shall give special consideration to applications (i) which will assist health systems agencies and State Agencies to meet the goals in their health systems plans and State health plans, or (ii) which will result in the greatest reduction in hospital costs within a health service area.

(c) Certification of protective arrangements for employment benefits and interests; guidelines; satisfactory arrangement determinations

(1) Except as provided in paragraph (3), the Secretary may not approve an application submitted under subsection (b) of this section unless the Secretary of Labor has certified that fair and

equitable arrangements have been made to protect the interests of employees affected by the discontinuance of services against a worsening of their positions with respect to their employment, including arrangements to preserve the rights of employees under collective-bargaining agreements, continuation of collective-bargaining rights consistent with the provisions of the National Labor Relations Act [29 U.S.C. 151 et seq.], reassignment of affected employees to other jobs, retraining programs, protecting pension, health benefits, and other fringe benefits of affected employees, and arranging adequate severance pay, if necessary.

(2) The Secretary of Labor shall by regulation prescribe guidelines for arrangements for the protection of the interests of employees affected by the discontinuance of hospital services. The Secretary of Labor shall consult with the Secretary of Health and Human Services in the promulgation of such guidelines. Such guidelines shall first be promulgated not later than the promulgation of regulations by the Secretary for the administration of the grants authorized by section 300t-11 of this title.

(3) The Secretary of Labor shall review each application submitted under subsection (b) of this section to determine if the arrangements described in paragraph (1) have been made and if they are satisfactory and shall notify the Secretary respecting his determination. Such review shall be completed within –

(A) ninety days from the date of the receipt of the application from the Secretary of Health and Human Services, or

(B) one hundred and twenty days from such date if the Secretary of Labor has by regulation prescribed the circumstances under which the review will require at least one hundred and twenty days.

If within the applicable period, the Secretary of Labor does not notify the Secretary of Health and Human Services respecting his determination, the Secretary of Health and Human Services shall review the application to determine if the applicant has made the arrangements described in paragraph (1) and if such arrangements are satisfactory. The Secretary may not approve the application unless he determines that such arrangements have been made and that they are satisfactory.

(d) Records and audits requirements

The records and audits requirements of section 292e (!2) of this title shall apply with respect to grants made under subsection (a) of this section.

(e) "Hospital" defined

For purposes of this part, the term "hospital" means, with respect to any fiscal year, an institution (including a distinct part of an institution participating in the programs established under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.]) –

(1) which satisfies paragraphs (1) and (7) of section 1861(e) of such Act [42 U.S.C. 1395x(e)],

(2) imposes charges or accepts payments for services provided to patients, and

(3) the average duration of a patient's stay in which was thirty days or less in the preceding fiscal year, but such term does not include a Federal hospital or a psychiatric hospital (as described in section 1861(f)(1) of the Social Security Act [42 U.S.C. 1395x(f)(1)]).

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1642, as added Pub. L. 96–79, title III, Sec. 301(a), Oct. 4, 1979, 93 Stat. 637; amended Pub. L. 96–88, title V, Sec. 509(b), Oct. 17, 1979, 93 Stat. 695.)

–REFTEXT–

REFERENCES IN TEXT

Section 300l–2, of this title, referred to in subsec. (b)(2)(A), was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII, Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799.

The National Labor Relations Act, referred to in subsec. (c)(1), is act July 5, 1935, ch. 372, 49 Stat. 452, as amended, which is classified generally to subchapter II (Sec. 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

Section 292e of this title, referred to in subsec. (d), was in the original a reference to section 705 of act July 1, 1944.

Section 705 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102–408, title I, Sec. 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new section 705 of act July 1, 1944, relating to eligibility of borrowers and terms of insured loans, and a new section 706,

relating to certificates of loan insurance, which are classified to sections 292d and 292e, respectively, of this title.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (Sec. 1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

–COD–

CODIFICATION

In subsec. (b)(1)(D), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931 (40 U.S.C. 276a – 276a–5, known as the Davis–Bacon Act)" 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, Sec. 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

–CHANGE–

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (c)(2) and (3), pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300s–1a, 300s–3, 300s–5,

300t-14 of this title.

–FOOTNOTE–

(!1) See References in Text note below.

(!2) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300t-13 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part E – Program To Assist and Encourage Voluntary Discontinuance of

Unneeded Hospital Services and Conversion of Unneeded

Hospital Services to Other Health Services Needed by

Community

–HEAD–

Sec. 300t-13. Grants to States for reduction of excess hospital

capacity

–STATUTE–

(a) "Excess hospital capacity" defined; particular activities

For the purpose of demonstrating the effectiveness of various

means for reducing excesses in resources and facilities of

hospitals (referred to in this section as "excess hospital

capacity"), the Secretary may make grants to State Agencies

designated under section 300m(b)(3) (!1) of this title to assist

such Agencies in –

(1) identifying (by geographic region or by health service)

excess hospital capacity,

(2) developing programs to inform the public of the costs

associated with excess hospital capacity,

(3) developing programs to reduce excess hospital capacity in a

manner which will produce the greatest savings in the cost of

health care delivery,

(4) developing means to overcome barriers to the reduction of

excess hospital capacity,

(5) in planning, evaluating, and carrying out programs to

decertify health care facilities providing health services that

are not appropriate, and

(6) any other activity related to the reduction of excess

hospital capacity.

(b) Terms and conditions

Grants under subsection (a) of this section shall be made on such

terms and conditions as the Secretary may prescribe.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1643, as added Pub. L.

96–79, title III, Sec. 301(a), Oct. 4, 1979, 93 Stat. 639.)

–REFTEXT–

REFERENCES IN TEXT

Section 300m of this title, referred to in subsec. (a), was in

the original a reference to section 1521 of act July 1, 1944, which

was repealed effective Jan. 1, 1987, by Pub. L. 99–660, title VII,

Sec. 701(a), Nov. 14, 1986, 100 Stat. 3799. Pub. L. 101–354, Sec.

2, Aug. 10, 1990, 104 Stat. 410, enacted section 1503 of act July

1, 1944, which is classified to section 300m of this title.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300t–14 of this title.

–FOOTNOTE–

(!1) See References in Text note below.

–End–

–CITE–

42 USC Sec. 300t–14 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XIV – HEALTH RESOURCES DEVELOPMENT

Part E – Program To Assist and Encourage Voluntary Discontinuance of

Unneeded Hospital Services and Conversion of Unneeded

Hospital Services to Other Health Services Needed by

Community

–HEAD–

Sec. 300t–14. Authorization of appropriations

–STATUTE–

To make payments under grants under sections 300t–12 and 300t–13

of this title there are authorized to be appropriated \$30,000,000

for the fiscal year ending September 30, 1980, \$50,000,000 for the

fiscal year ending September 30, 1981, and \$75,000,000 for the

fiscal year ending September 30, 1982, except that in any fiscal

year not more than 10 percent of the amount appropriated under this section may be obligated for grants under section 300t-13 of this title.

–SOURCE–

(July 1, 1944, ch. 373, title XVI, Sec. 1644, as added Pub. L.

96-79, title III, Sec. 301(a), Oct. 4, 1979, 93 Stat. 640.)

–End–

–CITE–

42 USC SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH
PROMOTION 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–End–

–CITE–

42 USC Sec. 300u 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u. General authority of Secretary

–STATUTE–

(a) Development, support, and implementation of programs, activities, etc.

The Secretary shall –

(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

(3) undertake and support necessary activities and programs to –

(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health

care;

(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(7)(A) develop model programs through which employers in the public sector, and employers that are small businesses (as defined in section 632 of title 15), can provide for their employees a program to promote healthy behaviors and to discourage participation in unhealthy behaviors;

(B) provide technical assistance to public and private employers in implementing such programs (including private employers that are not small businesses and that will implement programs other than the programs developed by the Secretary pursuant to subparagraph (A)); and

(C) in providing such technical assistance, give preference to small businesses;

(8) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health

promotion, preventive health services, and education in the appropriate use of health care;

(9) provide technical assistance in the programs referred to in paragraph (8);

(10) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this subchapter; and

(11) establish in the Office of the Assistant Secretary for Health an Office of Disease Prevention and Health Promotion, which shall –

(A) coordinate all activities within the Department which relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care;

(B) coordinate such activities with similar activities in the private sector;

(C) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services (which may include information concerning models and standards for insurance coverage of such services), and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

(D) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

The Secretary shall appoint a Director for the Office of Disease Prevention and Health Promotion established pursuant to paragraph (11) of this subsection. The Secretary shall administer this subchapter in cooperation with health care providers, educators, voluntary organizations, businesses, and State and local health agencies in order to encourage the dissemination of health information and health promotion activities.

(b) Authorization of appropriations

For the purpose of carrying out this section and sections 300u-1 through 300u-4 of this title, there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2002.

(c) Application; submission and approval as prerequisite; form and content

No grant may be made or contract entered into under this subchapter unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this subchapter without regard to section 3324(a) and (b) of title 31 and section 5 of title 41.

—SOURCE—

(July 1, 1944, ch. 373, title XVII, Sec. 1701, as added Pub. L.

94–317, title I, Sec. 102, June 23, 1976, 90 Stat. 695; amended
Pub. L. 96–32, Sec. 7(n), July 10, 1979, 93 Stat. 85; Pub. L.
96–76, title II, Sec. 209, Sept. 29, 1979, 93 Stat. 584; Pub. L.
98–551, Sec. 2(a), Oct. 30, 1984, 98 Stat. 2815; Pub. L. 100–607,
title III, Sec. 312(a)(1), (b)(1), (c), Nov. 4, 1988, 102 Stat.
3113, 3114; Pub. L. 102–168, title I, Sec. 101, Nov. 26, 1991, 105
Stat. 1102; Pub. L. 102–531, title III, Sec. 311(b)(1), Oct. 27,
1992, 106 Stat. 3503; Pub. L. 105–392, title IV, Sec. 414, Nov. 13,
1998, 112 Stat. 3590.)

–COD–

CODIFICATION

In subsec. (c), "section 3324(a) and (b) of title 31" substituted
for "section 3648 of the Revised Statutes (31 U.S.C. 529)" on
authority of Pub. L. 97–258, Sec. 4(b), Sept. 13, 1982, 96 Stat.
1067, the first section of which enacted Title 31, Money and
Finance.

–MISC1–

AMENDMENTS

1998 – Subsec. (b). Pub. L. 105–392 substituted "2002" for
"1996".

1992 – Subsec. (a)(11)(C). Pub. L. 102–531 substituted
"preventive health services (which may include information
concerning models and standards for insurance coverage of such
services)," for "preventive health services,".

1991 – Subsec. (b). Pub. L. 102–168 amended subsec. (b)
generally. Prior to amendment, subsec. (b) read as follows: "To

carry out sections 300u through 300u-4 of this title, there are authorized to be appropriated \$9,000,000 for the fiscal year ending September 30, 1985, \$9,500,000 for the fiscal year ending September 30, 1986, \$10,000,000 for the fiscal year ending September 30, 1987, and \$10,000,000 for each of the fiscal years 1989 through 1991."

1988 – Subsec. (a). Pub. L. 100-607, Sec. 312(c)(2), in concluding provisions, struck out "The Secretary shall administer this subchapter in a manner consistent with the national health priorities set forth in section 300k-2 of this title." before "The Secretary shall appoint", and substituted "paragraph (11)" for "paragraph (10)".

Subsec. (a)(7), (8). Pub. L. 100-607, Sec. 312(b)(1), added par. (7) and redesignated former par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 100-607, Sec. 312(c)(1), substituted "paragraph (8)" for "paragraph (7)".

Pub. L. 100-607, Sec. 312(b)(1)(A), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Subsec. (a)(10), (11). Pub. L. 100-607, Sec. 312(b)(1)(A), redesignated pars. (9) and (10) as (10) and (11), respectively.

Subsec. (b). Pub. L. 100-607, Sec. 312(a)(1), substituted "sections 300u through 300u-4 of this title" for "this subchapter", struck out "and" after "September 30, 1986,", and inserted ", and \$10,000,000 for each of the fiscal years 1989 through 1991".

1984 – Subsec. (a). Pub. L. 98-551, Sec. 2(a)(1), added par.

(10), and in provisions following par. (10) struck out "and with health planning and resource development activities undertaken under subchapters XIII and XIV of this chapter" after "section 300k-2 of this title" and inserted provisions for appointment of a Director for Office of Disease Prevention and Health Promotion and cooperation in administration of this subchapter.

Subsec. (b). Pub. L. 98-551, Sec. 2(a)(2), substituted "To carry out this subchapter, there are authorized to be appropriated \$9,000,000 for the fiscal year ending September 30, 1985, \$9,500,000 for the fiscal year ending September 30, 1986, and \$10,000,000 for the fiscal year ending September 30, 1987" for "For payments under grants and contracts under this subchapter (other than grants and contracts under sections 300u-6, 300u-7, and 300u-8 of this title) there are authorized to be appropriated \$7,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, \$14,000,000 for the fiscal year ending September 30, 1979, \$14,000,000 for the fiscal year ending September 30, 1980, \$15,000,000 for the fiscal year ending September 30, 1981, and \$16,000,000 for the fiscal year ending September 30, 1982."

1979 – Subsec. (b). Pub. L. 96-76 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980, Sept. 30, 1981, and Sept. 30, 1982.

Pub. L. 96-32 inserted "(other than grants and contracts under sections 300u-6, 300u-7, and 300u-8 of this title)" after "grants and contracts under this subchapter".

SHORT TITLE

For short title of title I of Pub. L. 94–317, which enacted this subchapter as the "National Consumer Health Information and Health Promotion Act of 1976", see section 101 of Pub. L. 94–317, set out as a Short Title of 1976 Amendments note under section 201 of this title.

MODEL PROGRAMS FOR EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION; DEVELOPMENT COMPLETION

Section 312(b)(2) of Pub. L. 100–607 required Secretary of Health and Human Services, not later than 18 months after Nov. 4, 1988, to complete development of model programs required in section 1701(a)(7)(A) of the Public Health Service Act (subsec. (a)(7)(A) of this section).

–EXEC–

EXECUTIVE ORDER NO. 12345

Ex. Ord. No. 12345, Feb. 2, 1982, 47 F.R. 5189, as amended by Ex. Ord. No. 12539, Dec. 3, 1985, 50 F.R. 49829; Ex. Ord. No. 12694, Oct. 11, 1989, 54 F.R. 42285; Ex. Ord. No. 12709, Apr. 4, 1990, 55 F.R. 13097; Ex. Ord. No. 13138, Sec. 8, Sept. 30, 1999, 64 F.R. 53881, which provided for the Secretary of Health and Human Services to develop and coordinate a national program for physical fitness and sports, continued the President's Council on Physical Fitness and Sports, and provided for termination of the Council on Dec. 31, 1982, was revoked by Ex. Ord. No. 13265, Sec. 5(c), June 6, 2002, 67 F.R. 39842, set out below.

EX. ORD. NO. 13265. PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND

SPORTS

Ex. Ord. No. 13265, June 6, 2002, 67 F.R. 39841, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to expand the executive branch's program for physical fitness and sports and establish the President's Council on Physical Fitness and Sports (the "Council"), it is hereby ordered as follows:

Section 1. Purpose. The Secretary of Health and Human Services (Secretary) shall, in carrying out his responsibilities for public health and human services, develop and coordinate a national program to enhance physical activity and sports participation.

Through this program, the Secretary shall seek to:

- (a) expand national interest in and awareness of the benefits of regular physical activity and active sports participation;
- (b) stimulate and enhance coordination of programs within and among the private and public sectors that promote participation in, and safe and easy access to, physical activity and sports;
- (c) expand availability of quality information and guidance regarding physical activity and sports participation;
- (d) integrate physical activity into a broader health–promotion and disease–prevention effort through Federal agencies and the private sector; and
- (e) target all Americans, with particular emphasis on children and adolescents, as well as populations or communities in which specific risks or disparities in participation in, access to, or knowledge about the benefits of physical activity have been

identified.

Sec. 2. The President's Council on Physical Fitness and Sports.

(a) There is hereby established the President's Council on Physical Fitness and Sports.

(b) The Council shall be composed of up to 20 members appointed by the President. The President may designate one or more members to be Chair or Vice Chair. Each member shall serve for a term of 2 years and may continue to serve after the expiration of that term until a successor is appointed.

Sec. 3. Functions of the Council.

(a) The Council shall advise the President, through the Secretary, concerning progress made in carrying out the provisions of this order and shall recommend to the President, through the Secretary, actions to accelerate progress.

(b) The Council shall advise the Secretary on ways to enhance opportunities for participation in physical fitness and sports. Recommendations may address, but are not necessarily limited to, public awareness campaigns, Federal, State, and local physical activity initiatives, and partnership opportunities between public- and private-sector health-promotion entities.

(c) The Council shall function as a liaison to relevant State, local, and private entities in order to advise the Secretary regarding opportunities to extend and improve physical activity programs and services at both the local and national levels.

(d) The Council shall monitor the need for the enhancement of programs and educational and promotional materials sponsored,

overseen, or disseminated by the Council, and shall advise the Secretary as necessary concerning such need.

Sec. 4. Administration.

(a) Each Federal agency shall, to the extent permitted by law and subject to available funds, furnish such information and assistance to the Secretary and the Council as they may request.

(b) The members of the Council shall serve without compensation for their work on the Council. Members of the Council may, however, receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government (5 U.S.C. 5701–5707).

(c) To the extent permitted by law, the Secretary shall furnish the Council with necessary staff, supplies, facilities, and other administrative services. The expenses of the Council shall be paid from funds available to the Secretary.

(d) The Secretary shall appoint an Executive Director of the Council who shall serve as a liaison to the Secretary and the White House on matters and activities pertaining to the Council.

(e) The Council may establish subcommittees as appropriate to aid in its work. Such subcommittees shall meet on a voluntary basis and be defined by objectives established in coordination with and agreed upon by the Secretary and the President.

(f) The seal prescribed by Executive Order 10830 of July 24, 1959, as amended, shall be the seal of the President's Council on Physical Fitness and Sports established by this order.

Sec. 5. General Provisions.

(a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the Administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines and procedures issued by the Administrator of General Services.

(b) In accordance with the Act, the Council shall terminate 2 years from the date of this order, unless extended by the President.

(c) Executive Order 12345 of February 2, 1982, as amended, is revoked.

George W. Bush.

EXTENSION OF TERM OF PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1984, by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1985, by Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 1987, by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of

the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1989, by Ex. Ord. No. 12610, Sept. 30,
1987, 52 F.R. 36901, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1991, by Ex. Ord. No. 12692, Sept. 29,
1989, 54 F.R. 40627, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1993, by Ex. Ord. No. 12774, Sept. 27,
1991, 56 F.R. 49835, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1995, by Ex. Ord. No. 12869, Sept. 30,
1993, 58 F.R. 51751, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29,
1995, 60 F.R. 51875, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports
extended until Sept. 30, 1999, by Ex. Ord. No. 13062, Sept. 29,
1997, 62 F.R. 51755, formerly set out as a note under section 14 of
the Federal Advisory Committee Act in the Appendix to Title 5.

Term of the President's Council on Physical Fitness and Sports

extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5. Term of the President's Council on Physical Fitness and Sports extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

EX. ORD. NO. 13266. ACTIVITIES TO PROMOTE PERSONAL FITNESS

Ex. Ord. No. 13266, June 20, 2002, 67 F.R. 42467, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the efficiency and coordination of Federal policies related to personal fitness of the general public, it is hereby ordered as follows:

Section 1. Policy. This order is issued consistent with the following findings and principles:

- (a) Growing scientific evidence indicates that an increasing number of Americans are suffering from negligible physical activity, poor dietary habits, insufficient utilization of preventive health screenings, and engaging in risky behaviors such as abuse of alcohol, tobacco, and drugs.
- (b) Existing information on the importance of appropriate physical activity, diet, preventive health screenings, and avoiding harmful substances is often not received by the public, or, if received, is not acted on sufficiently.
- (c) Individuals of all ages, locations, and levels of personal

fitness can benefit from some level of appropriate physical activity, dietary guidance, preventive health screening, and making healthy choices.

(d) While personal fitness is an individual responsibility, the Federal Government may, within the authority and funds otherwise available, expand the opportunities for individuals to empower themselves to improve their general health. Such opportunities may include improving the flow of information about personal fitness, assisting in the utilization of that information, increasing the accessibility of resources for physical activity, and reducing barriers to achieving good personal fitness.

Sec. 2. Agency Responsibilities in Promoting Personal Fitness.

(a) The Secretaries of Agriculture, Education, Health and Human Services (HHS), Housing and Urban Development, Interior, Labor, Transportation, and Veterans Affairs, and the Director of the Office of National Drug Policy shall review and evaluate the policies, programs, and regulations of their respective departments and offices that in any way relate to the personal fitness of the general public. Based on that review, the Secretaries and the Director shall determine whether existing policies, programs, and regulations of their respective departments and offices should be modified or whether new policies or programs could be implemented. These new policies and programs shall be consistent with otherwise available authority and appropriated funds, and shall improve the Federal Government's assistance of individuals, private organizations, and State and local governments to (i) increase

physical activity; (ii) promote responsible dietary habits; (iii) increase utilization of preventive health screenings; and (iv) encourage healthy choices concerning alcohol, tobacco, drugs, and safety among the general public.

(b) Each department and office included in section 2(a) shall report to the President, through the Secretary of Health and Human Services, its proposed actions within 90 days of the date of this order.

(c) There shall be a Personal Fitness Interagency Working Group (Working Group), composed of the Secretaries or Directors of the departments and offices included in section 2(a) (or their designees) and chaired by the Secretary of HHS or his designee. In order to improve efficiency through information sharing and to eliminate waste and overlap, the Working Group shall work to ensure the cooperation of Federal agencies in coordinating Federal personal fitness activities. The Working Group shall meet subject to the call of the Chair, but not less than twice a year. The Department of Health and Human Services shall provide such administrative support to the Working Group as the Secretary of HHS deems necessary. Each member of the Working Group shall be a full-time or permanent part-time officer or employee of the Federal Government.

Sec. 3. General Provisions. This order is intended only to improve the internal management of the executive branch and it is not intended to, and does not, create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or

equity by a party against the United States, its departments, agencies or entities, its officers or employees, or any person.

George W. Bush.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u–4 of this title.

–End–

–CITE–

42 USC Sec. 300u–1 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u–1. Grants and contracts for research programs; authority of Secretary; review of applications; additional functions; periodic public survey

–STATUTE–

(a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also –

(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually

conducting research;

(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;

(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

(5) develop a method for assessing the cost and effectiveness

of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and (6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use (which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management).

(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

–SOURCE–

(July 1, 1944, ch. 373, title XVII, Sec. 1702, as added Pub. L. 94–317, title I, Sec. 102, June 23, 1976, 90 Stat. 696; amended Pub. L. 102–531, title III, Sec. 311(b)(2), Oct. 27, 1992, 106 Stat. 3504.)

–MISC1–

AMENDMENTS

1992 – Subsec. (a)(6). Pub. L. 102–531 inserted before period

"(which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management)".

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u of this title.

–End–

–CITE–

42 USC Sec. 300u–2 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u–2. Grants and contracts for community health programs

–STATUTE–

(a) Authority of Secretary; particular activities

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically –

(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

(b) Grants to States and other public and nonprofit private entities; costs of demonstrating and evaluating programs; development of models

The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to section 300u-3(4) and 300u-3(5) of this title for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

(c) Private nonprofit entities; limitation on amount of grant or contract

The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year beginning after

September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

–SOURCE–

(July 1, 1944, ch. 373, title XVII, Sec. 1703, as added Pub. L. 94–317, title I, Sec. 102, June 23, 1976, 90 Stat. 697.)

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300u of this title.

–End–

–CITE–

42 USC Sec. 300u–3 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u–3. Grants and contracts for information programs;
authority of Secretary; particular activities

–STATUTE–

The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of

medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

- (1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health consumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.
- (2) Securing the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.
- (3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.
- (4) The development of models and standards for the publication

by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

–SOURCE–

(July 1, 1944, ch. 373, title XVII, Sec. 1704, as added Pub. L. 94–317, title I, Sec. 102, June 23, 1976, 90 Stat. 698; amended Pub. L. 98–551, Sec. 2(b), Oct. 30, 1984, 98 Stat. 2816.)

–MISC1–

AMENDMENTS

1984 – Par. (6). Pub. L. 98–551 struck out par. (6) which provided grant authority to the Secretary to assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care, and new

activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 300u, 300u–2 of this title.

–End–

–CITE–

42 USC Sec. 300u–4 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u–4. Status reports to President and Congress; study of health education and preventive health services with respect to insurance coverage

–STATUTE–

(a) The Secretary shall, not later than two years after June 23, 1976, and biannually thereafter, submit to the President for transmittal to Congress a report on the status of health

information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include –

- (1) a statement of the activities carried out under this subchapter since the last report and the extent to which each such activity achieves the purposes of this subchapter;
 - (2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this subchapter designed to prepare teachers and other manpower for such programs;
 - (3) the goals and strategy formulated pursuant to section 300u(a)(1) of this title, the models and standards developed under this subchapter, and the results of the study required by subsection (b) of this section; and
 - (4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this subchapter.
- (b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of

such services.

–SOURCE–

(July 1, 1944, ch. 373, title XVII, Sec. 1705, as added Pub. L. 94–317, title I, Sec. 102, June 23, 1976, 90 Stat. 699; amended Pub. L. 104–66, title I, Sec. 1062(d), Dec. 21, 1995, 109 Stat. 720.)

–MISC1–

AMENDMENTS

1995 – Subsec. (a). Pub. L. 104–66 substituted "biannually" for "annually" in introductory provisions.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which item 4 on page 96 identifies a reporting provision which, as subsequently amended, is contained in subsec. (a) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

–SECREf–

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 247b, 300u of this title.

–End–

–CITE–

42 USC Sec. 300u–5 01/06/03

–EXPCITE–

TITLE 42 – THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A – PUBLIC HEALTH SERVICE

SUBCHAPTER XV – HEALTH INFORMATION AND HEALTH PROMOTION

–HEAD–

Sec. 300u–5. Centers for research and demonstration of health promotion and disease prevention

–STATUTE–

(a) Establishment; grants; contracts; research and demonstration projects

The Secretary shall make grants or enter into contracts with academic health centers for the establishment, maintenance, and operation of centers for research and demonstration with respect to health promotion and disease prevention. Centers established, maintained, or operated under this section shall undertake research and demonstration projects in health promotion, disease prevention, and improved methods of appraising health hazards and risk factors, and shall serve as demonstration sites for the use of new and innovative research in public health techniques to prevent chronic diseases.

(b) Location; types of research and projects

Each center established, maintained, or operated under this section shall –

(1) be located in an academic health center with –

(A) a multidisciplinary faculty with expertise in public health and which has working relationships with relevant groups in such fields as medicine, psychology, nursing, social work, education and business;

- (B) graduate training programs relevant to disease prevention;
- (C) a core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;
- (D) a demonstrated curriculum in disease prevention;
- (E) a capability for residency training in public health or preventive medicine; and
- (F) such other qualifications as the Secretary may prescribe;

(2) conduct –

- (A) health promotion and disease prevention research, including retrospective studies and longitudinal prospective studies in population groups and communities;
- (B) demonstration projects for the delivery of services relating to health promotion and disease prevention to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and
- (C) evaluation studies on the efficacy of demonstration projects conducted under subparagraph (B) of this paragraph.

The design of any evaluation study conducted under subparagraph

- (C) shall be established prior to the commencement of the demonstration project under subparagraph (B) for which the evaluation will be conducted.

(c) Equitable geographic distribution of centers; procedures

- (1) In making grants and entering into contracts under this

section, the Secretary shall provide for an equitable geographical distribution of centers established, maintained, and operated under this section and for the distribution of such centers among areas containing a wide range of population groups which exhibit incidences of diseases which are most amenable to preventive intervention.

(2) The Secretary, through the Director of the Centers for Disease Control and Prevention and in consultation with the Director of the National Institutes of Health, shall establish procedures for the appropriate peer review of applications for grants and contracts under this section by peer review groups composed principally of non-Federal experts.

(d) "Academic health center" defined

For purposes of this section, the term "academic health center" means a school of medicine, a school of osteopathy, or a school of public health, as such terms are defined in section 292a(4) (!1) of this title.

(e) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2003.

—SOURCE—

(July 1, 1944, ch. 373, title XVII, Sec. 1706, as added Pub. L.

98-551, Sec. 2(d), Oct. 30, 1984, 98 Stat. 2816; amended Pub. L.

100-607, title III, Sec. 312(a)(2), Nov. 4, 1988, 102 Stat. 3113;

Pub. L. 102–168, title I, Sec. 102, Nov. 26, 1991, 105 Stat. 1102;
Pub. L. 102–531, title III, Sec. 312(d)(12), Oct. 27, 1992, 106
Stat. 3505; Pub. L. 103–183, title VII, Sec. 705(d), Dec. 14, 1993,
107 Stat. 2241; Pub. L. 105–340, title II, Sec. 204, Oct. 31, 1998,
112 Stat. 3195.)

–REFTEXT–

REFERENCES IN TEXT

Section 292a of this title, referred to in subsec. (d), was in
the original a reference to section 701 of act July 1, 1944.

Section 701 of that Act was omitted in the general revision of
subchapter V of this chapter by Pub. L. 102–408, title I, Sec. 102,
Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102–408 enacted a new
section 701 of act July 1, 1944, relating to statement of purpose,
and a new section 702, relating to scope and duration of loan
insurance program, which are classified to sections 292 and 292a, and 292a,
respectively, of this title. For provisions relating to
definitions, see section 295p of this title.

–MISC1–

PRIOR PROVISIONS

A prior section 300u–5, act July 1, 1944, ch. 373, title XVII,
Sec. 1706, as added June 23, 1976, Pub. L. 94–317, title I, Sec.
102, 90 Stat. 700; amended Nov. 10, 1978, Pub. L. 95–626, title V,
Sec. 501, 92 Stat. 3592; Jan. 4, 1983, Pub. L. 97–414, Sec. 8(r),
96 Stat. 2062, related to establishment of the Office of Health
Promotion, prior to repeal by Pub. L. 98–551, Sec. 2(c), Oct. 30,
1984, 98 Stat. 2816.

AMENDMENTS1998 – Subsec. (e). Pub. L. 105–340 substituted "2003" for "1998".

1993 – Subsec. (e). Pub. L. 103–183 substituted "through 1998" for "through 1996".

1992 – Subsec. (c)(2). Pub. L. 102–531, which directed amendment of subsec. (c)(2)(B) by substituting "Centers for Disease Control and Prevention" for "Centers for Disease Control", was executed by making the substitution in subsec. (c)(2) to reflect the probable intent of Congress and the redesignation of subsec. (c)(2)(B) as subsec. (c)(2) by Pub. L. 102–168. See 1991 Amendment note below.

1991 – Subsec. (c). Pub. L. 102–168, Sec. 102(b), redesignated subpars. (A) and (B) of par. (2) as pars. (1) and (2), respectively, and struck out former par. (1), which read as follows: "During fiscal year 1985, the Secretary shall make grants or enter into contracts for the establishment of three centers under this section. During fiscal year 1986, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the maintenance and operation of the three centers established under this section in fiscal year 1985. During fiscal year 1987, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the operation and maintenance of the eight centers established under this section in fiscal years 1985 and 1986."

Subsec. (e). Pub. L. 102–168, Sec. 102(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "To carry out this section, there are authorized to be appropriated

\$3,000,000 for the fiscal year ending September 30, 1985,
\$8,000,000 for the fiscal year ending September 30, 1986,
\$13,000,000 for the fiscal year ending September 30, 1987,
\$6,000,000 for fiscal year 1989, \$8,000,000 for fiscal year 1990,
and \$10,000,000 for fiscal year 1991."

1988 – Subsec. (e). Pub. L. 100–607 struck out "and" after
"1986," and inserted ", \$6,000,000 for fiscal year 1989, \$8,000,000
for fiscal year 1990, and \$10,000,000 for fiscal year 1991" before
period at end.

–FOOTNOTE–

(!1) See References in Text note below.

–End–