

sponsibility under section 300g-2 of this title, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water." for "Not later than 36 months after June 19, 1986, the Administrator shall propose and promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems."

Subsec. (b)(9). Pub. L. 104-182, §104(c), amended par. (9) generally. Prior to amendment, par. (9) read as follows: "National primary drinking water regulations shall be amended whenever changes in technology, treatment techniques, and other means permit greater protection of the health of persons, but in any event such regulations shall be reviewed at least once every 3 years. Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities that have occurred over the previous 3-year period and that may provide for greater protection of the health of persons. The findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that the technology, treatment techniques, or other means resulting from such innovations or changes are not feasible within the meaning of paragraph (5), an explanation of such conclusion shall be published in the Federal Register."

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 Regulations under subsection (a) of this section shall be superseded by regulations under this subsection to the extent provided by the regulations under this subsection."

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

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

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

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

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

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

"(1) The Administrator shall publish proposed national interim primary drinking water regulations within 90 days after December 16, 1974. Within 180 days after December 16, 1974, he shall promulgate such regulations with such modifications as he deems appropriate. Regulations under this paragraph may be amended from time to time.

"(2) National interim primary drinking water regulations promulgated under paragraph (1) shall protect health to the extent feasible, using technology, treatment techniques, and other means, which the Administrator determines are generally available (taking costs into consideration) on December 16, 1974.

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

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

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

Subsec. (b)(3). Pub. L. 99-339, §101(b), substituted provisions directing the Administrator to publish maxi-

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

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

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

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

#### NATIONAL PRIMARY DRINKING WATER REGULATION FOR ARSENIC

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

#### APPLICABILITY OF PRIOR REQUIREMENTS

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

#### DISINFECTANTS AND DISINFECTION BYPRODUCTS

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

### § 300g-2. State primary enforcement responsibility

#### (a) In general

For purposes of this subchapter, a State has primary enforcement responsibility for public water systems during any period for which the

Administrator determines (pursuant to regulations prescribed under subsection (b) of this section) that such State—

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

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

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

(4) if it permits variances or exemptions, or both, from the requirements of its drinking water regulations which meet the requirements of paragraph (1), permits such variances and exemptions under conditions and in a manner which is not less stringent than the conditions under, and the manner in which variances and exemptions may be granted under sections 300g-4 and 300g-5 of this title;

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

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

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

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

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

#### **(b) Regulations**

(1) The Administrator shall, by regulation (proposed within 180 days of December 16, 1974), prescribe the manner in which a State may apply to the Administrator for a determination that the requirements of paragraphs (1), (2), (3), and (4) of subsection (a) of this section are satisfied with respect to the State, the manner in which the determination is made, the period for which the determination will be effective, and the manner in which the Administrator may determine that such requirements are no longer met. Such regulations shall require that before a determination of the Administrator that such requirements are met or are no longer met with respect to a State may become effective, the Administrator shall notify such State of the deter-

mination and the reasons therefor and shall provide an opportunity for public hearing on the determination. Such regulations shall be promulgated (with such modifications as the Administrator deems appropriate) within 90 days of the publication of the proposed regulations in the Federal Register. The Administrator shall promptly notify in writing the chief executive officer of each State of the promulgation of regulations under this paragraph. Such notice shall contain a copy of the regulations and shall specify a State's authority under this subchapter when it is determined to have primary enforcement responsibility for public water systems.

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

#### **(c) Interim primary enforcement authority**

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

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

#### AMENDMENTS

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

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

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

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

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

#### **§ 300g-3. Enforcement of drinking water regulations**

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

(1)(A) Whenever the Administrator finds during a period during which a State has primary