

son. Such order shall apply to such manufacturers, producers, processors, distributors, and repackagers of such chemical or substance as the President or his delegate deems necessary and appropriate, except that such order may not apply to any manufacturer, producer, or processor of such chemical or substance who manufactures, produces, or processes (as the case may be) such chemical or substance solely for its own use. Persons subject to an order issued under this section shall be given a reasonable opportunity to consult with the President or his delegate with respect to the implementation of the order.

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

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

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

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

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

(d) Breach of contracts; defense

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

(e) Penalties for noncompliance with orders; temporary restraining orders and preliminary or permanent injunctions

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

(2) Whoever fails to comply with any order issued pursuant to subsection (c)(1) shall be sub-

ject to a civil penalty of not more than \$2,500 for each such failure to comply.

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

(f) Termination date

No certification of need or order issued under this section may remain in effect for more than one year.

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

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”.

EX. ORD. NO. 11879. DELEGATION OF FUNCTIONS TO SECRETARY OF COMMERCE RELATING TO ORDERS FOR PROVISION OF CHEMICALS OR SUBSTANCES NECESSARY FOR TREATMENT OF WATER

Ex. Ord. No. 11879, Sept. 17, 1975, 40 F.R. 43197, provided:

By virtue of the authority vested in me by Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act [now Safe Drinking Water Act of 1974] (88 Stat. 1680, 42 U.S.C. 300j), and as President of the United States, the Secretary of Commerce is hereby delegated, with power to redelegate to agencies, officers and employees of the Government, the functions of the President contained in said section 1441 [42 U.S.C. 300j]. Those functions shall be administered under regulations or agreements which are identical or compatible with other regulations and agreements, including those provided pursuant to Executive Order No. 10480, as amended [former 50 U.S.C. App. 2153 note], for the allocation of similar chemicals or substances.

GERALD R. FORD.

§ 300j-1. Research, technical assistance, information, training of personnel

(a) Specific powers and duties of Administrator

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

(A) improved methods (i) to identify and measure the existence of contaminants in drinking water (including methods which may

be used by State and local health and water officials), and (ii) to identify the source of such contaminants;

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

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

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

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

(F) innovative water technologies (including technologies to improve water treatment to ensure compliance with this subchapter and technologies to identify and mitigate sources of drinking water contamination, including lead contamination).

(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this subchapter, the Administrator is authorized to—

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

(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this subchapter.

(3) The Administrator shall carry out a study of polychlorinated biphenyl contamination of actual or potential sources of drinking water, contamination of such sources by other substances known or suspected to be harmful to public health, the effects of such contamination, and means of removing, treating, or otherwise controlling such contamination. To assist in carrying out this paragraph, the Administrator is authorized to make grants to public agencies and private nonprofit institutions.

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

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

(B) means of control of such waste disposal.

Not later than one year after December 16, 1974, he shall transmit to the Congress the results of such survey and study, together with such recommendations as he deems appropriate.

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

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

(7) The Administrator shall carry out a study of virus contamination of drinking water

sources and means of control of such contamination.

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

(9) The Administrator shall conduct a comprehensive study of public water supplies and drinking water sources to determine the nature, extent, sources of and means of control of contamination by chemicals or other substances suspected of being carcinogenic. Not later than six months after December 16, 1974, he shall transmit to the Congress the initial results of such study, together with such recommendations for further review and corrective action as he deems appropriate.

(10) The Administrator shall carry out a study of the reaction of chlorine and humic acids and the effects of the contaminants which result from such reaction on public health and on the safety of drinking water, including any carcinogenic effect.

(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) 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 to small public water systems

(1) The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations.

(2) Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations.

(3) The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State.

(4) Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection.

(5) There are authorized to be appropriated to the Administrator to be used for such technical assistance \$15,000,000 for each of the fiscal years 2015 through 2020.

(6) No portion of any State loan fund established under section 300j-12 of this title (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses.

(7) Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes, including grants to provide training and operator certification services under section 300j-12(i)(5) of this title.

(8) NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—The Administrator may use amounts made available to carry out this section to provide grants or cooperative agreements to nonprofit organizations that provide to small public water systems onsite technical assistance, circuit-rider technical assistance programs, multistate, regional technical assistance programs, onsite and regional training, assistance with implementing source water protection plans, and assistance with implementing monitoring plans, rules, regulations, and water security enhancements.

(B) PREFERENCE.—To ensure that technical assistance funding is used in a manner that is most beneficial to the small and rural communities of a State, the Administrator shall give preference under this paragraph to nonprofit organizations that, as determined by the Administrator, are the most qualified and experienced in providing training and technical assistance to small public water systems and that the small community water systems in that State find to be the most beneficial and effective.

(C) LIMITATION.—No grant or cooperative agreement provided or otherwise made available under this section may be used for litigation pursuant to section 300j-8 of this title.

(f) Technical assistance for innovative water technologies

(1) The Administrator may provide technical assistance to public water systems to facilitate use of innovative water technologies.

(2) There are authorized to be appropriated to the Administrator for use in providing technical assistance under paragraph (1) \$10,000,000 for each of fiscal years 2017 through 2021.

(July 1, 1944, ch. 373, title XIV, §1442, as added Pub. L. 93-523, §2(a), Dec. 16, 1974, 88 Stat. 1682; amended Pub. L. 95-190, §§2(a), 3(a), (b), (e)(1), 4, 9, 10(b), 13, Nov. 16, 1977, 91 Stat. 1393-1395, 1397-1399; Pub. L. 96-63, §1, Sept. 6, 1979, 93 Stat. 411; Pub. L. 96-502, §5, Dec. 5, 1980, 94 Stat. 2738; Pub. L. 99-339, title I, §107, title III, §§301(a), (g), 304(a), June 19, 1986, 100 Stat. 651, 663, 665, 667; Pub. L. 104-66, title II, §2021(h), Dec. 21, 1995, 109 Stat. 727; Pub. L. 104-182, title I, §§121, 122, Aug. 6, 1996, 110 Stat. 1651; Pub. L. 107-188, title IV, §403(4), June 12, 2002, 116 Stat. 687; Pub. L. 114-98, §4, Dec. 11, 2015, 129 Stat. 2200; Pub. L. 114-322, title II, §§2109(a), (b), 2112(a), Dec. 16, 2016, 130 Stat. 1729.)

AMENDMENTS

2016—Subsec. (a)(1)(F). Pub. L. 114-322, §2109(a), added subpar. (F).

Subsec. (e). Pub. L. 114-322, §2109(b)(1), inserted “to small public water systems” after “assistance” in heading.

Subsec. (e)(7). Pub. L. 114-322, §2112(a), substituted “Tribes, including grants to provide training and operator certification services under section 300j-12(i)(5) of this title” for “Tribes”.

Subsec. (f). Pub. L. 114-322, §2109(b)(2), added subsec. (f).

2015—Subsec. (e). Pub. L. 114-98, §4(1), designated first to seventh sentences of existing provisions as pars. (1) to (7), respectively.

Subsec. (e)(5). Pub. L. 114-98, §4(2), substituted “2015 through 2020” for “1997 through 2003”.

Subsec. (e)(8). Pub. L. 114-98, §4(3), added par. (8).

2002—Subsec. (b). Pub. L. 107-188, § 403(4)(A), which directed substitution of “this subsection” for “this subparagraph”, was executed by making the substitution in three places to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 107-188, § 403(4)(B), amended subsec. (d) generally, substituting provisions relating to authorization of appropriations to carry out subsec. (b) in fiscal year 2002 and subsequent fiscal years for provisions relating to authorization of appropriations to carry out this section in fiscal year 1991 and earlier.

1996—Subsec. (a)(2). Pub. L. 104-182, § 121(4)(A), added heading and text of par. (2) and struck out former par. (2) which read as follows: “(2)(A) The Administrator shall, to the maximum extent feasible, provide technical assistance to the States and municipalities in the establishment and administration of public water system supervision programs (as defined in section 300j-2(c)(1) of this title).”

Subsec. (a)(2)(B). Pub. L. 104-182, § 121(3), redesignated subpar. (B) as subsec. (b) and transferred that subsec. to appear after subsec. (a).

Subsec. (a)(3), (11). Pub. L. 104-182, § 121(4)(B), (C), redesignated par. (11) as (3), transferred that par. to appear before par. (4), and struck out former par. (3) which provided that the Administrator was to conduct studies, and make periodic reports to Congress, on the costs of carrying out regulations prescribed under section 300g-1 of this title.

Subsec. (b). Pub. L. 104-182, § 121(2), (3), redesignated subsec. (a)(2)(B) as subsec. (b), transferred that subsec. to appear after subsec. (a), and struck out former subsec. (b) which read as follows: “In carrying out this subchapter, the Administrator is authorized to—

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

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

Subsecs. (b)(3), (c)(3). Pub. L. 104-182, § 121(1), which directed redesignation of subsec. (b)(3) as par. (3) of subsec. (d) and transfer of that par. to follow par. (2) of subsec. (d), was executed by redesignating subsec. (b)(3) as par. (3) of subsec. (c) and transferring that par. to follow par. (2) of subsec. (c) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (c) by Pub. L. 104-66. See 1995 Amendment note below. Moreover, subsec. (d) does not have any pars.

Subsec. (e). Pub. L. 104-182, § 122, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Administrator is authorized to provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include ‘circuit-rider’ programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection \$10,000,000 for each of the fiscal years 1987 through 1991. Not less than the greater of—

“(1) 3 percent of the amounts appropriated under this subsection, or

“(2) \$280,000

shall be utilized for technical assistance to public water systems owned or operated by Indian tribes.”

1995—Subsecs. (c) to (g). Pub. L. 104-66 redesignated subsecs. (d), (f), and (g) as (c), (d), and (e), respectively, and struck out former subsec. (c) which read as follows: “Not later than eighteen months after November 16, 1977, the Administrator shall submit a report to Congress on the present and projected future availability of an adequate and dependable supply of safe drinking water to meet present and projected future need. Such report shall include an analysis of the future demand for drinking water and other competing uses of water, the availability and use of methods to conserve water or reduce demand, the adequacy of present measures to

assure adequate and dependable supplies of safe drinking water, and the problems (financial, legal, or other) which need to be resolved in order to assure the availability of such supplies for the future. Existing information and data compiled by the National Water Commission and others shall be utilized to the extent possible.”

1986—Subsec. (e). Pub. L. 99-339, § 304(a), struck out subsec. (e) which authorized the Administrator to make grants to public water systems which are required, under State or local law, to meet standards relating to drinking turbidity which are more stringent than the standards in effect under this subchapter.

Subsec. (f). Pub. L. 99-339, § 301(a), authorized appropriations to carry out subsec. (a)(2)(B) of this section for fiscal years 1987 to 1991 and to carry out provisions of this section other than subsecs. (a)(2)(B) and (g) and provisions relating to research for fiscal years 1987 to 1991.

Subsec. (g). Pub. L. 99-339, § 301(g), authorized appropriations to carry out this subsection of \$10,000,000 for each of fiscal years 1987 through 1991 and specified amount to be utilized for public water systems owned or operated by Indian tribes.

Pub. L. 99-339, § 107 added subsec. (g).

1980—Subsecs. (e), (f). Pub. L. 96-502 added subsec. (e) and redesignated former subsec. (e) as (f).

1979—Subsec. (e). Pub. L. 96-63 authorized appropriations of \$21,405,000 for fiscal year ending Sept. 30, 1980, \$30,000,000 for fiscal year ending Sept. 30, 1981, and \$35,000,000 for fiscal year ending Sept. 30, 1982 for purposes other than those of subsec. (a)(2)(B) of this section and for purposes of subsec. (a)(2)(B) of this section, \$8,000,000 for fiscal years 1980 through 1982.

1977—Subsec. (a)(2). Pub. L. 95-190, §§ 9, 13, designated existing provisions as subpar. (A), added subpar. (B) and, in subpar. (B) as added, substituted provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation affecting public water systems and criteria for such grants and assistance for provisions authorizing Administrator to make grants and provide technical assistance for any emergency situation respecting drinking water and criteria for determination of such situations.

Subsec. (a)(3). Pub. L. 95-190, § 3(a), designated existing provisions as subpar. (A) and added subpar. (B).

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

Subsec. (b)(3)(C). Pub. L. 95-190, § 10(b), substituted “300j-2(c)” for “300j-2(d)”.

Subsecs. (c), (d). Pub. L. 95-190, §§ 3(b), 4, added subsecs. (c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 95-190, §§ 2(a), 3(b), redesignated former subsec. (c) as (e) and inserted provisions authorizing appropriations for fiscal years 1978 and 1979, and provisions relating to appropriations for subsec. (a)(2)(B) of this section and for research.

REPORT ON INNOVATIVE WATER TECHNOLOGIES

Pub. L. 114-322, title II, § 2109(c), Dec. 16, 2016, 130 Stat. 1729, provided that: “Not later than 1 year after the date of enactment of the Water and Waste Act of 2016 [Dec. 16, 2016], and not less frequently than every 5 years thereafter, the Administrator [of the Environmental Protection Agency] shall report to Congress on—

“(1) the amount of funding used to provide technical assistance under section 1442(f) of the Safe Drinking Water Act [42 U.S.C. 300j-1(f)] to deploy innovative water technologies;

“(2) the barriers impacting greater use of innovative water technologies; and

“(3) the cost-saving potential to cities and future infrastructure investments from innovative water technologies.”

FINDINGS

Pub. L. 114-98, § 2, Dec. 11, 2015, 129 Stat. 2199, provided that: “Congress finds that—

“(1) the Safe Drinking Water Act Amendments of 1996 (Public Law 104-182) [see Short Title of 1996 Amendments note set out under section 201 of this title] authorized technical assistance for small and rural communities to assist those communities in complying with regulations promulgated pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

“(2) technical assistance and compliance training—

“(A) ensures that Federal regulations do not overwhelm the resources of small and rural communities; and

“(B) provides small and rural communities lacking technical resources with the necessary skills to improve and protect water resources;

“(3) across the United States, more than 90 percent of the community water systems serve a population of less than 10,000 individuals;

“(4) small and rural communities have the greatest difficulty providing safe, affordable public drinking water and wastewater services due to limited economies of scale and lack of technical expertise; and

“(5) in addition to being the main source of compliance assistance, small and rural water technical assistance has been the main source of emergency response assistance in small and rural communities.”

SCIENTIFIC RESEARCH REVIEW

Pub. L. 104-182, title II, §202, Aug. 6, 1996, 110 Stat. 1682, provided that:

“(a) IN GENERAL.—The Administrator shall—

“(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the ‘Agency’);

“(2) integrate that strategic plan into ongoing Agency planning activities; and

“(3) review all Agency drinking water research to ensure the research—

“(A) is of high quality; and

“(B) does not duplicate any other research being conducted by the Agency.

“(b) PLAN.—The Administrator shall transmit the plan to the Committees on Commerce [now Energy and Commerce] and Science [now Science, Space, and Technology] of the House of Representatives and the Committee on Environment and Public Works of the Senate and the plan shall be made available to the public.”

NATIONAL CENTER FOR GROUND WATER RESEARCH

Pub. L. 104-182, title II, §203, Aug. 6, 1996, 110 Stat. 1683, provided that: “The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration. No funds are authorized by this section.”

COMPARATIVE HEALTH EFFECTS ASSESSMENT

Pub. L. 99-339, title III, §304(b), June 19, 1986, 100 Stat. 667, 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.”

§ 300j-2. Grants for State programs

(a) Public water systems supervision programs; applications for grants; allotment of sums; waiver of grant restrictions; notice of approval or disapproval of application; authorization of appropriations

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

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

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

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

No grant may be made to a State under paragraph (1) for any period beginning more than one year after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for public water systems within the State. The prohibitions contained in the preceding two sentences shall not apply to such grants when made to Indian Tribes.

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

(4) In each fiscal year the Administrator shall, in accordance with regulations, allot the sums appropriated for such year under paragraph (5) among the States on the basis of population, geographical area, number of public water systems, and other relevant factors. No State shall receive less than 1 per centum of the annual appropriation for grants under paragraph (1): *Provided*, That the Administrator may, by regulation, reduce such percentage in accordance with the criteria specified in this paragraph: *And provided further*, That such percentage shall not apply to grants allotted to Guam, American Samoa, or the Virgin Islands.

(5) The prohibition contained in the last sentence of paragraph (2) may be waived by the Administrator with respect to a grant to a State through fiscal year 1979 but such prohibition may only be waived if, in the judgment of the Administrator—

(A) the State is making a diligent effort to assume and maintain primary enforcement responsibility for public water systems within the State;

(B) the State has made significant progress toward assuming and maintaining such primary enforcement responsibility; and

(C) there is reason to believe the State will assume such primary enforcement responsibility by October 1, 1979.

The amount of any grant awarded for the fiscal years 1978 and 1979 pursuant to a waiver under