

103^D CONGRESS
2^D SESSION

H. R. 3392

AN ACT

To amend the Safe Drinking Water Act to assure the safety
of public water systems.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Drinking Water
5 Act Amendments of 1994”.

1 **SEC. 2. REFERENCES; EFFECTIVE DATE; DISCLAIMER.**

2 (a) REFERENCE TO SAFE DRINKING WATER ACT.—
3 Except as otherwise expressly provided, whenever in this
4 Act an amendment or repeal is expressed in terms of an
5 amendment to, or repeal of, a section or other provision,
6 the reference shall be considered to be made to a section
7 or other provision of title XIV of the Public Health Service
8 Act (the Safe Drinking Water Act) (42 U.S.C. 300f and
9 following).

10 (b) EFFECTIVE DATE.—Except as otherwise speci-
11 fied in this Act or in the amendments made by this Act,
12 the amendments made by this Act shall take effect on the
13 date of enactment of this Act.

14 (c) DISCLAIMER.—Nothing in this Act or in any
15 amendments made by this Act to title XIV of the Public
16 Health Service Act (the Safe Drinking Water Act) or any
17 other law shall be construed by the Administrator of the
18 Environmental Protection Agency or the courts as affect-
19 ing, modifying, expanding, changing, or altering (1) the
20 provisions of the Federal Water Pollution Control Act, (2)
21 the duties and responsibilities of the Administrator under
22 that Act, or (3) the regulation or control of point or
23 nonpoint sources of pollution discharged into waters cov-
24 ered by that Act. The Administrator shall identify in the
25 agency's annual budget all funding and full-time equiva-
26 lents administering the Safe Drinking Water Act sepa-

1 rately from funding and staffing for the Federal Water
2 Pollution Control Act.

3 **SEC. 3. NATIONAL DRINKING WATER REGULATIONS.**

4 (a) NEW CONTAMINANT SELECTION.—Section
5 1412(b)(3) is amended to read as follows:

6 “(3) REGULATION OF UNREGULATED CONTAMI-
7 NANTS.—

8 “(A) PROPOSED LISTS.—(i) Within 1 year after
9 the enactment of the Safe Drinking Water Act
10 Amendments of 1994, the Administrator, after con-
11 sultation with the scientific community, including
12 the Science Advisory Board, shall select and publish
13 a proposed list of not fewer than 15 contaminants
14 which are known or anticipated to occur in public
15 water systems, which are not subject to any pro-
16 posed or promulgated national primary drinking
17 water regulation, and which may require regulation
18 under this title.

19 “(ii) Within 5 years after the enactment of the
20 Safe Drinking Water Act Amendments of 1994 and
21 every 4 years thereafter, the Administrator, after
22 consultation with the scientific community, including
23 the Science Advisory Board, and after considering
24 the occurrence data base established under section
25 1445(g), shall (in addition to the contaminants list-

1 ed under clause (i)) select and publish a proposed
2 list of not fewer than 12 contaminants which are not
3 subject to any proposed or promulgated national pri-
4 mary drinking water regulation, which are known or
5 anticipated to occur in public water systems, and
6 which may require regulation under this title.

7 “(iii) If, after the year 2010, the Administrator
8 determines that the number of unregulated contami-
9 nants meeting the criteria for the list under clause
10 (ii) is fewer than 12, the Administrator may, by
11 rule, waive the requirement to select at least 12 con-
12 taminants every 4 years under that clause. At any
13 time after such rule is promulgated, the Adminis-
14 trator may, after consultation with the scientific
15 community, including the Science Advisory Board
16 and after considering the occurrence data base es-
17 tablished under section 1445(g), select a proposed
18 list of 1 or more contaminants (in addition to the
19 contaminants listed under clause (i) or (ii)) which
20 are known or anticipated to occur in public water
21 systems, which are not subject to any proposed or
22 promulgated national primary drinking water regula-
23 tion, and which may require regulation under this
24 title.

1 “(iv) In selecting unregulated contaminants for
2 the proposed lists referred to in this paragraph, the
3 Administrator shall select contaminants that present
4 the greatest public health concern. The Adminis-
5 trator, in making such selection, shall take into con-
6 sideration, among other factors of public health con-
7 cern, the effect of such contaminants upon
8 subgroups that comprise a meaningful portion of the
9 general population (such as pregnant woman and
10 children) that are identifiable as being at greater
11 health risk than the general population, based on
12 adequate scientific information. The unregulated
13 contaminants considered for such proposed lists
14 shall include, but not be limited to, substances re-
15 ferred to in section 101(14) of the Comprehensive
16 Environmental Response Compensation and Liability
17 Act of 1980, and substances registered as pesticides
18 under the Federal Insecticide, Fungicide, and
19 Rodenticide Act.

20 “(v) The Administrator’s decision whether or
21 not to select an unregulated contaminant for a pro-
22 posed list pursuant to this paragraph shall not be
23 subject to judicial review.

24 “(B) FINAL LIST.—Each proposed list estab-
25 lished in subparagraph (A) shall be subject to public

1 comment for a period of at least 60 days. Within 6
2 months after the close of the public comment period,
3 and not later than 1 year after the proposed list is
4 published, the Administrator shall publish in the
5 Federal Register the final list of contaminants meet-
6 ing the requirements of subparagraph (A), together
7 with responses to significant comments. Each final
8 list shall include at least the minimum number of
9 contaminants specified in subparagraph (A).

10 “(C) DETERMINATION TO REGULATE.—At any
11 time after the final list of contaminants established
12 under subparagraph (B) is published, but not later
13 than 30 months thereafter, the Administrator shall
14 determine, by rule, whether or not to regulate each
15 of the contaminants on such final list. The Adminis-
16 trator, after notice in the Federal Register, may ex-
17 tend the period for making such determination for
18 any or all of the contaminants on the list for up to
19 9 months. The Administrator shall allow at least 90
20 days for public comment prior to making a deter-
21 mination under this subparagraph. A determination
22 to regulate a contaminant shall be based on the fol-
23 lowing three findings:

24 “(i) A finding that the contaminant is
25 known to occur in public water systems.

1 “(ii) A finding that, based on the best
2 available public health information, the con-
3 taminant occurs in concentrations which have
4 or may have any adverse effect on the health of
5 persons.

6 “(iii) A finding that regulation of such
7 contaminant presents a meaningful opportunity
8 for public health risk reduction for persons
9 served by public water systems.

10 The Administrator may regulate a contaminant that
11 does not appear on a list published under subpara-
12 graph (A) or (B) if the determination to regulate is
13 pursuant to this subparagraph.

14 “(D) REGULATION.—For each contaminant
15 under subparagraph (C) that the Administrator de-
16 termines shall be regulated, the Administrator shall
17 promulgate, by rule, maximum contaminant level
18 goals and national primary drinking water regula-
19 tions as provided in paragraphs (4) and (5) of this
20 subsection. The Administrator shall propose the
21 maximum contaminant level goal and national pri-
22 mary drinking water regulation not later than 18
23 months after the determination to regulate under
24 subparagraph (C), and may publish such proposed
25 regulation concurrent with the determination to reg-

1 ulate. The Administrator shall allow at least 90 days
2 for public comment on any such proposed goal and
3 proposed regulation. The Administrator shall pro-
4 mulgate a maximum contaminant level goal and na-
5 tional primary drinking water regulation within 18
6 months after the proposal thereof. The Adminis-
7 trator, by notice in the Federal Register, may extend
8 the deadline for such promulgation for up to 9
9 months.

10 “(E) HEALTH ADVISORIES.—The Administrator
11 may publish health advisories (which are not regula-
12 tions) or take other appropriate actions for contami-
13 nants not subject to any national primary drinking
14 water regulation.

15 “(F) STUDY OF HEALTH EFFECTS.—As part of
16 the Administrator’s study, under existing authorities
17 of the Administrator, of the health effects of con-
18 taminants for regulatory purposes, the Adminis-
19 trator shall examine, among other health related is-
20 sues, methods for identifying subpopulations that
21 may be impacted by contaminants and the extent
22 and nature of such impacts, taking into consider-
23 ation other risks to such subpopulations. There are
24 authorized to be appropriated such sums as may be
25 necessary for the Administrator to examine the

1 health effects of drinking water contaminants for
2 such regulatory purposes.

3 “(G) CRYPTOSPORIDIUM.—(i) Not later than
4 December 31, 1996, the Administrator shall publish
5 a maximum contaminant level goal and promulgate
6 an interim national primary drinking water regula-
7 tion for cryptosporidium for public water systems
8 serving 10,000 persons or more. Such regulation
9 shall take effect not later than 24 months after the
10 date of promulgation.

11 “(ii) Not later than December 31, 1998, the
12 Administrator shall promulgate a national primary
13 drinking water regulation for cryptosporidium. Such
14 regulation shall take effect, for public water systems
15 of all sizes, not later than 24 months after the date
16 of promulgation.

17 Each date for publication and promulgation specified in
18 clause (i) and (ii) may be delayed by up to 6 months if
19 the Administrator determines that such additional time is
20 necessary to review information under the Administrator’s
21 information collection rule.”.

22 (b) LIMITED ALTERNATIVE TO FILTRATION RE-
23 QUIREMENTS.—Section 1412(b)(7)(C) is amended by add-
24 ing at the end the following:

1 “(v) As an additional alternative to the regulations
2 promulgated pursuant to clauses (i) and (iii), including the
3 criteria for avoiding filtration contained in 40 CFR
4 141.71, a State exercising primary enforcement respon-
5 sibility for public water systems may establish, on a case-
6 by-case basis and after notice and an opportunity of at
7 least 90 days for public comment, alternatives to filtration
8 requirements in effect on such date of enactment, in the
9 case of systems having uninhabited, undeveloped water-
10 sheds in consolidated ownership, and having control over
11 access to, and activities in, those watersheds if (taking into
12 consideration the effects of wildlife in such watersheds)
13 the State determines (and the Administrator concurs) that
14 the public health will be fully protected by such alter-
15 natives consistent with the requirements of this title. The
16 authority of a State to establish alternatives under this
17 clause shall expire 3 years after the enactment of the Safe
18 Drinking Water Act Amendments of 1994.”.

19 (c) COMPLIANCE DATES.—Section 1412(b) is amend-
20 ed by striking the first sentence in paragraph (10) and
21 by adding the following at the end thereof:

22 “(12) Within 24 months after the promulgation of
23 a national primary drinking water regulation under this
24 subsection, each State exercising primary enforcement re-
25 sponsibility for public water systems shall adopt cor-

1 responding State regulations under section 1413(a)(1).
2 The Administrator shall specify the date upon which pub-
3 lic water systems must comply with each national primary
4 drinking water regulation promulgated under this sub-
5 section. Such compliance date may not be more than 36
6 months after the date of promulgation, except that if the
7 Administrator determines that additional time is nec-
8 essary for capital improvements required to meet the na-
9 tional primary drinking water regulations, the Adminis-
10 trator may establish a later compliance date. Such later
11 date shall not be later than 48 months after the date of
12 promulgation (or 60 months in the case of systems serving
13 fewer than 3,300 persons). Each State with primary en-
14 forcement responsibility may determine a public water sys-
15 tem's eligibility for any extension beyond 36 months.
16 Nothing in this paragraph shall limit the discretion of the
17 Administrator to differentiate among the compliance dates
18 on the basis of system size or other factors considered ap-
19 propriate by the Administrator, or to establish interim
20 compliance milestones.”.

21 **SEC. 4. STANDARD SETTING.**

22 Section 1412 is amended as follows:

- 23 (1) The second sentence of subsection (b)(4) is
24 amended by inserting before the period the follow-

1 ing: “or a treatment technique established pursuant
2 to paragraph (7)(A) of this subsection”.

3 (2) Subsection (b)(5) is amended as follows:

4 (A) In the first sentence, strike “feasible”
5 after “means” and insert “achievable”; and
6 after “technology” strike “, treatment tech-
7 niques and” and insert “or”.

8 (B) Insert “(A)” after “(5)” and add the
9 following at the end thereof:

10 “(B) For purposes of taking costs into consideration
11 pursuant to the first sentence of subparagraph (A) of this
12 paragraph, in the case of any national primary drinking
13 water regulation proposed and promulgated after enact-
14 ment of the Safe Drinking Water Act Amendments of
15 1994 (other than a national primary drinking water regu-
16 lation covered by subparagraph (C) or (D)), the Adminis-
17 trator shall consider (in the case of nonthreshold contami-
18 nants) and may consider (in the case of threshold contami-
19 nants) both the incremental compliance costs likely to be
20 incurred and the incremental public health risk reduction
21 benefits afforded by alternative levels. The terms ‘costs’
22 and ‘benefits’, as used in this subparagraph—

23 “(i) shall include additional and identifiable re-
24 ductions, if any, of regulated contaminants not cov-
25 ered by such proposed or promulgated regulation

1 that are expected to be achieved solely from the use
2 of the applicable technology or technologies that
3 form the basis for such regulation, and

4 “(ii) shall include consideration of the effects of
5 such contaminants upon subgroups that comprise a
6 meaningful portion of the general population, such
7 as pregnant women and children, that are identifi-
8 able as being at greater health risk than the general
9 population based on adequate scientific information.

10 “(C) Subparagraph (B) shall not take effect with re-
11 spect to the first promulgation after the date of enactment
12 of the Safe Drinking Water Act Amendments of 1994, or
13 with respect to the initial revision after such date, of a
14 national primary drinking water regulation for the follow-
15 ing:

16 “(i) Contaminants covered by the proposed na-
17 tional primary drinking water regulation for radio-
18 nuclides as set forth in 56 Federal Register 33050,
19 July 19, 1991.

20 “(ii) Sulfate.

21 “(iii) Contaminants covered by the proposed ne-
22 gotiated rules on (I) disinfectants and disinfection
23 by-products as set forth in 59 Federal Register
24 38668, July 29, 1994, and (II) enhanced surface
25 water treatment as set forth in 59 Federal Register

1 38832, July 29, 1994. Subparagraph (B) shall also
2 not take effect with respect to the promulgation of
3 a second stage regulation for contaminants covered
4 by the proposed negotiated rules referred to in
5 clause (iii).

6 Any subsequent revision of any such regulation shall be
7 subject to the provisions of subparagraph (D).

8 “(D) In the case of any national primary drinking
9 water regulation for a contaminant regulated prior to en-
10 actment of the Safe Drinking Water Act Amendments of
11 1994, or any subsequent revision of a national primary
12 drinking water regulation established in accordance with
13 subparagraph (C), subparagraph (B) shall apply to any
14 proposal to amend such national primary drinking water
15 regulation only if a review required pursuant to paragraph
16 (9) results in findings by the Administrator, published in
17 the Federal Register, that changes in technology, treat-
18 ment techniques, or other means permit greater protection
19 of the health of persons. If the Administrator promulgates
20 such regulation in accordance with subparagraph (B),
21 such regulation must provide for greater protection of the
22 health of persons. If the Administrator does not promul-
23 gate a regulation in accordance with subparagraph (B) be-
24 cause such greater protection of the health of persons is
25 not achievable, the Administrator may initiate a new rule-

1 making under subparagraph (A) or retain the existing na-
2 tional primary drinking water regulations.

3 “(E) Any subsequent revision of a national primary
4 drinking water regulation for contaminants regulated in
5 accordance with subparagraph (C) or (D) (where such re-
6 vision is pursuant to the standard setting language of sub-
7 paragraph (B)) shall, at a minimum, provide greater pro-
8 tection of the health of persons than the regulation in ef-
9 fect on the date of enactment of the Safe Drinking Water
10 Act Amendments of 1994 for such contaminant or, in the
11 case of contaminants subject to subparagraph (C), than
12 the regulation promulgated under subparagraph (C). If
13 the Administrator does not promulgate such regulation in
14 accordance with subparagraph (B) because such greater
15 protection is not achievable, the Administrator may initi-
16 ate a new rulemaking pursuant to subparagraph (A) or
17 retain the existing national primary drinking water regula-
18 tions.

19 “(F) In the absence of scientific evidence suggesting
20 new or more serious health effects than existing on the
21 date of enactment of the Safe Drinking Water Act Amend-
22 ments of 1994, for purposes of proposal and promulgation
23 after such date of a national primary drinking water regu-
24 lation for sulfate, the Administrator shall include—

1 “(i) best technology or other means under sub-
2 section (b)(5), and

3 “(ii) public notification and options for provi-
4 sion of alternative water to populations at risk as al-
5 ternative means for complying with such regulation.

6 Such proposal shall be made within 6 months after such
7 date of enactment and such rule shall be promulgated
8 within 2 years after such date of enactment.

9 “(G)(i) Except as provided in clause (ii), notwith-
10 standing any provision of any law enacted prior to the en-
11 actment of the Safe Drinking Water Act Amendments of
12 1994, within 6 months of such date of enactment, the Ad-
13 ministrators shall promulgate a national primary drinking
14 water regulation for radon.

15 “(ii) For the period of 5 years from the date of pro-
16 mulgation of the regulation under clause (i) or from the
17 end of the 6-month period referred to in such clause,
18 whichever comes first, such regulation shall provide that
19 public water systems may comply with an alternative max-
20 imum contaminant level of 1000 picocuries per liter. If
21 the Congress enacts legislation which reauthorizes the In-
22 door Radon Abatement Act in the 103d or 104th Con-
23 gress, such alternative maximum contaminant level shall
24 thereafter be deemed to be the applicable maximum con-
25 taminant level for purposes of such regulation.”.

1 (3) In the first sentence of subsection
2 (b)(7)(A), strike the word “ascertain” and insert
3 “measure”.

4 (4) In subsection (b)(9) strike “3-year” and in-
5 sert “5-year”. No change to section 1412(b)(9)
6 made by this Act shall be a basis for delaying the
7 promulgation of any rule proposed pursuant to sec-
8 tion 1412(b)(9) prior to the date of the enactment
9 of this Act.

10 (5) Add the following new subsection at the end
11 thereof:

12 “(f) METHODOLOGIES; RISK ASSESSMENT.—(1) The
13 Administrator, in carrying out the provisions of this title,
14 is expected, consistent with the intent of Congress, to use
15 at all times sound, unbiased, and objective scientific prac-
16 tices and methodologies. The Administrator, in carrying
17 out the Administrator’s responsibilities under this title,
18 shall ensure that the presentation of information on sig-
19 nificant health risks is unbiased and informative.

20 “(2) To the extent feasible, documents made available
21 to the general public which describe the degree of risk
22 from exposure shall, at a minimum, characterize the popu-
23 lation or populations, (including any identifiable sub-
24 populations, as referred to in section 1412(b)(5)(B)(ii), at
25 greater risk than the general population) addressed by any

1 agency risk estimates; state the expected risk for the spe-
2 cific population; and state the reasonable range or other
3 equivalent description of uncertainty in the assessment
4 process.”.

5 **SEC. 5. SMALL SYSTEM TECHNOLOGY.**

6 Section 1412(b)(6) is amended to read as follows:

7 “(6)(A) For purposes of this section and section
8 1415, at the time the Administrator proposes and promul-
9 gates a national primary drinking water regulation estab-
10 lishing a maximum contaminant level for any contami-
11 nant, the Administrator shall propose and promulgate a
12 listing of the best technology or other means available for
13 achieving compliance with such regulation for large public
14 water systems, and a listing of the best technology or other
15 means, if any, available for achieving compliance with such
16 regulation for public water systems in each of the follow-
17 ing categories:

18 “(i) Systems serving fewer than 10,000 persons
19 but not fewer than 3,300 persons.

20 “(ii) Systems serving 3,300 persons or fewer.

21 In proposing and promulgating lists for systems described
22 in clauses (i) and (ii), the Administrator shall consider
23 cost variations associated with system size.

24 “(B) For purposes of this section and section 1415,
25 at the time the Administrator proposes and promulgates

1 a national primary drinking water regulation establishing
2 a treatment technique for any contaminant, the Adminis-
3 trator shall propose and promulgate, for large public water
4 systems, and for systems in the size ranges referred to
5 in clause (i) and (ii) of subparagraph (A), a listing of the
6 best technology or other means, if any, available for
7 achieving a level of protection for public health equivalent
8 to the level of protection provided by such treatment tech-
9 nique for systems in such size ranges.

10 “(C) A listing under this paragraph of the best tech-
11 nology or other means under subparagraph (A) shall not
12 be construed to require or authorize that any specified
13 technology or other means be used for purpose of meeting
14 any national primary drinking water regulation.

15 “(D) A listing under this paragraph of the best tech-
16 nology or other means shall provide as much reliable infor-
17 mation as practicable on performance, effectiveness, limi-
18 tations, costs, and other relevant factors in support of the
19 listing, including the applicability of such technology or
20 other means to surface and underground source waters,
21 or both. Consistent with such reliable information, each
22 State exercising primary enforcement responsibility for
23 such systems shall presume (pending the availability of
24 monitoring data, pending availability of information on a
25 system’s viability, including the availability of financial as-

1 sistence under this title, and pending other relevant fac-
2 tors) that use of such technology or other means should
3 enable the public water system concerned to meet the na-
4 tional primary drinking water regulation.

5 “(E) The Administrator shall, on a continuing basis,
6 assess the engineering feasibility, performance, effective-
7 ness, costs, and limitations of best technologies and other
8 means of meeting national primary drinking water regula-
9 tions, and may, by rule, revise the list under subparagraph
10 (A) or (B) as appropriate.

11 “(F) As used in this paragraph, the term ‘best tech-
12 nology’ for public water systems shall include, whenever
13 appropriate, innovative and alternative technologies.

14 “(G) At any time after the promulgation of a national
15 primary drinking water regulation, the Administrator may
16 add to the lists under this paragraph, by guidance pub-
17 lished in the Federal Register, any new or innovative tech-
18 nology or other means. A State may treat such tech-
19 nologies in the same manner as those listed pursuant to
20 subparagraph (A) or (B).

21 “(H) To the greatest extent possible, within 24
22 months after the enactment of the Safe Drinking Water
23 Act Amendments of 1994, the Administrator shall publish
24 each of the following for public water systems in the size

1 ranges referred to in clauses (i) and (ii) of subparagraph
2 (A)—

3 “(i) For contaminants subject to a maximum
4 contaminant level promulgated prior to such publica-
5 tion, a list of best technologies available that achieve
6 compliance with such maximum contaminant level.

7 “(ii) For contaminants subject to a treatment
8 technique promulgated prior to such publication, a
9 list of alternative technologies that achieve a level of
10 protection of public health equivalent to the level of
11 protection provided by such treatment technique.”.

12 **SEC. 6. AMENDMENTS TO SECTION 1413.**

13 (a) EMERGENCY PLANS.—Section 1413(a)(5) is
14 amended by inserting after “emergency circumstances”
15 the following: “including earthquakes, floods, hurricanes,
16 and other natural disasters”.

17 (b) PROTECTION OF DRINKING WATER DISTRIBU-
18 TION SYSTEMS.—Section 1413(a) is amended by adding
19 the following after paragraph (6), as added by section
20 7(a):

21 “(7) has adopted (pursuant to guidance issued
22 by the Administrator not later than 3 years after the
23 date of the enactment of the Safe Drinking Water
24 Act Amendments of 1994) and implemented require-
25 ments for public water systems in the State to take

1 feasible measures to protect the distribution system
2 from contamination due to leakage from sewer
3 lines.”.

4 (c) RECYCLING OF FILTER BACKWASH.—Section
5 1413 is amended by adding at the end thereof the follow-
6 ing:

7 “(c) RECYCLING OF FILTER BACKWASH.—The Ad-
8 ministrator shall promulgate a regulation to govern the
9 recycling of filter backwash water within the treatment
10 process of a public water system. The Administrator shall
11 promulgate such regulation not later than 3 years after
12 the date of the enactment of the Safe Drinking Water Act
13 Amendments of 1994 unless such recycling has been ad-
14 dressed by the Administrator’s ‘enhanced surface water
15 treatment rule’ prior to such date. Any regulation under
16 this subsection shall be deemed to be a national primary
17 drinking water regulation for purposes of this title.”.

18 **SEC. 7. CERTIFICATION OF LABORATORIES AND OPERA-**
19 **TORS.**

20 (a) CERTIFICATION.—Section 1413(a) is amended by
21 striking “and” at the end of paragraph (4), by striking
22 the period at the end of paragraph (5) and inserting a
23 semicolon, and by adding the following at the end thereof:

24 “(6) has adopted and is implementing, within 2
25 years after the promulgation of regulations pursuant

1 to section 1442(h), requirements for the certification
2 of—

3 “(A) laboratories conducting tests pursu-
4 ant to this part, and

5 “(B) operators of community and
6 nontransient noncommunity public water sys-
7 tems; and”.

8 (b) STANDARDS.—Section 1442 is amended by add-
9 ing the following at the end thereof:

10 “(h) MINIMUM STANDARDS.—(1) Not later than 30
11 months after the date of enactment of the Safe Drinking
12 Water Act Amendments of 1994 and after consultation
13 with States exercising primary enforcement responsibility
14 for public water systems, the Administrator shall promul-
15 gate regulations specifying minimum standards for certifi-
16 cation (and recertification) of the operators of public
17 water systems. Such regulations shall take into account
18 existing State programs, the complexity of the system and
19 other factors aimed at providing an effective program at
20 reasonable cost to States and public water systems, taking
21 into account the size of the system.

22 “(2) Not later than 3 years after the date of enact-
23 ment of the Safe Drinking Water Act Amendments of
24 1994 and after consultation with States exercising pri-
25 mary enforcement responsibility for public water systems,

1 the Administrator shall promulgate regulations specifying
2 minimum standards for certification (and recertification)
3 of laboratories conducting tests pursuant to this part.
4 Such regulations shall contain minimum criteria to ensure,
5 to the extent possible, nationwide uniformity in such test-
6 ing.

7 “(3) For any State exercising primary enforcement
8 responsibility for public water systems which has an oper-
9 ator certification program in effect on the date of the en-
10 actment of the Safe Drinking Water Act Amendments of
11 1994, the regulations under paragraph (1) shall allow the
12 State to enforce such program in lieu of the regulations
13 under paragraph (1) if the State submits the program to
14 the Administrator within 18 months after the promulga-
15 tion of such regulations unless the Administrator deter-
16 mines (within 9 months after the State submits the pro-
17 gram to the Administrator) that such program is incon-
18 sistent with such regulations. If disapproved it may be re-
19 submitted in accordance with section 1428(c).”.

20 (c) STUDY OF TRANSIENT SYSTEMS.—The Adminis-
21 trator of the Environmental Protection Agency shall sur-
22 vey various categories of transient noncommunity public
23 water systems nationwide to evaluate any potential public
24 health threat posed by any lack of operator certification
25 or training for such systems, and within 4 years after the

1 date of the enactment of the Safe Drinking Water Act
2 Amendments of 1994, report to Congress with appropriate
3 recommendations.

4 **SEC. 8. ENFORCEMENT OF DRINKING WATER REGULA-**
5 **TIONS.**

6 (a) NOTICE.—Section 1414(a)(1)(A) is amended by
7 striking “he shall so notify the State and” and inserting
8 “the Administrator shall so notify the State, provide the
9 State with an opportunity to confer with the Adminis-
10 trator, and notify”.

11 (b) EFFECTIVE DATE.—Section 1414(g)(2) is
12 amended as follows:

13 (1) Amend the first sentence to read as follows:
14 “In the case of a State exercising primary enforce-
15 ment responsibility for public water systems, an
16 order issued under this subsection to enforce section
17 1445 shall not take effect until after the Adminis-
18 trator has provided such State with an opportunity
19 to confer with the Administrator regarding the
20 order.”.

21 (2) Strike “proposed” in the second sentence.

22 (c) CIVIL PENALTY.—Section 1414(g)(3) is amended
23 as follows:

24 (1) In subparagraph (B), strike “\$5,000” and
25 insert “\$75,000 (or \$100,000 if the violation occurs

1 for more than 15 days or the public water system
2 serves more than 10,000 persons)''.

3 (2) In subparagraph (C), strike "\$5,000" and
4 insert "\$75,000 (or \$100,000 if the violation occurs
5 for more than 15 days or the public water system
6 serves more than 10,000 persons)'".

7 (d) ENFORCEABILITY OF STATE REQUIREMENTS.—
8 Section 1414 is amended by adding the following at the
9 end thereof:

10 "(h) STATE REQUIREMENTS.—For a State exercising
11 primary enforcement responsibility for public water sys-
12 tems, any violation of a State requirement that imple-
13 ments a national primary drinking water regulation shall
14 be treated as a violation of a national primary drinking
15 water regulation in effect under section 1412, except to
16 the extent that the State requirement includes elements
17 that are more stringent, or broader in scope, than ele-
18 ments of the national primary drinking water regulation.'".

19 **SEC. 9. QUARTERLY NONCOMPLIANCE REPORTING.**

20 (a) NONCOMPLIANCE REPORTING.—Section 1413 is
21 amended by inserting the following new subsection after
22 subsection (c):

23 "(d) QUARTERLY NONCOMPLIANCE REPORTING.—
24 (1) Each State exercising primary enforcement respon-
25 sibility for public water systems shall submit quarterly re-

1 ports to the Administrator on a schedule and in a format
2 prescribed by the Administrator, consisting of each of the
3 following items:

4 “(A) Violations, during the previous quarter, by
5 public water systems in the State of State regula-
6 tions adopted to implement the requirements of na-
7 tional primary drinking water regulations.

8 “(B) Enforcement actions taken, during the
9 previous quarter, by the State against public water
10 systems with respect to State regulations adopted to
11 implement the requirements of national primary
12 drinking water regulations.

13 “(C) Notification of any variance or exemption
14 granted during the previous quarter. The notice
15 shall include a statement of reasons for the granting
16 of the variance or exemption, including documenta-
17 tion of the need for the variance or exemption and
18 the finding that the granting of the variance or ex-
19 emption will not result in an unreasonable risk to
20 health. The State may use a single notification
21 statement to report 2 or more similar variances or
22 exemptions.

23 “(2) The reports under paragraph (1)(A) shall in-
24 clude information specifying the contamination level in the

1 case of any exceedance of any maximum contaminant level
2 included in a national primary drinking water regulation.

3 “(3) The Administrator shall make all information
4 reported to the Administrator under this subsection avail-
5 able to the public in such manner as will ensure maximum
6 accessibility and comprehension by the public.”.

7 (b) COMPLIANCE WITH SUBSECTION (h).—Section
8 1413(a)(3) is amended by inserting “, including reports
9 under subsection (d),” after “reports”.

10 **SEC. 10. SMALL SYSTEM ASSISTANCE PROGRAM.**

11 (a) BAAT VARIANCE.—Section 1415 is amended by
12 adding the following at the end thereof:

13 “(e) SMALL SYSTEM ASSISTANCE PROGRAM.—

14 “(1) BAAT VARIANCES.—In the case of public
15 water systems serving 3,300 persons or fewer, a
16 variance under this section shall be granted by a
17 State which has primary enforcement responsibility
18 for public water systems allowing the use of Best
19 Available Affordable Technology in lieu of best tech-
20 nology or other means where—

21 “(A) no best technology or other means is
22 listed under subparagraph (A)(ii) or subpara-
23 graph (B) of section 1412(b)(6) for a given
24 contaminant for public water systems serving
25 3,300 persons or fewer;

1 “(B) the Administrator has identified
2 BAAT for that contaminant pursuant to para-
3 graph (3); and

4 “(C) the State finds that the conditions in
5 paragraph (4) are met.

6 “(2) DEFINITION OF BAAT.—The term ‘Best
7 Available Affordable Technology’ or ‘BAAT’ means
8 the most effective technology or other means for the
9 control of a drinking water contaminant or contami-
10 nants that is available and affordable to systems
11 serving fewer than 3,300 persons.

12 “(3) IDENTIFICATION OF BAAT.—(A) As part
13 of each national primary drinking water regulation
14 proposed and promulgated after the enactment of
15 the Safe Drinking Water Act Amendments of 1994,
16 the Administrator shall identify BAAT in any case
17 where no ‘best technology or other means’ is listed
18 under subparagraph (A)(ii) or subparagraph (B) of
19 section 1412(b)(6) for that contaminant for systems
20 serving fewer than 3,300 persons. No such identified
21 BAAT shall require a technology from specific man-
22 ufacturer or brand. BAAT need not be adequate to
23 achieve the applicable maximum contaminant level
24 or treatment technique, but shall bring the public
25 water system as close to achievement of such maxi-

1 mum contaminant level as practical or as close to
2 the level of health protection provided by such treat-
3 ment technique as practical, as the case may be. Any
4 technology or other means identified as BAAT must
5 be determined by the Administrator to be protective
6 of public health. Simultaneously with identification
7 of BAAT, the Administrator shall list any assump-
8 tions underlying the public health determination re-
9 ferred to in the preceding sentence, where such as-
10 sumptions concern the public water system to which
11 the technology may be applied, or its source waters.
12 The Administrator shall provide the assumptions
13 used in determining affordability, taking into consid-
14 eration the number of persons served by such sys-
15 tems. Such listing shall provide as much reliable in-
16 formation as practicable on performance, effective-
17 ness, limitations, costs, and other relevant factors in
18 support of such listing, including the applicability of
19 BAAT to surface and underground waters or both.

20 “(B) To the greatest extent possible, within 24
21 months after the date of the enactment of the Safe
22 Drinking Water Act Amendments of 1994, the Ad-
23 ministrator shall identify BAAT for all national pri-
24 mary drinking water regulations proposed or pro-
25 mulgated prior to such date of enactment where no

1 best technology or other means is listed under sub-
2 paragraph (A)(ii) or subparagraph (B) of section
3 1412(b)(6) for that contaminant for systems serving
4 fewer than 3,300 persons, and where compliance by
5 such small systems is not practical. In identifying
6 BAAT for such national primary drinking water reg-
7 ulations, the Administrator shall give priority to
8 evaluation of atrazine, asbestos, selenium,
9 pentachlorophenol, antimony, and nickel.

10 “(4) CONDITIONS FOR BAAT VARIANCE.—To
11 grant a variance under this subsection, the State
12 must determine that—

13 “(A) the public water system cannot install
14 ‘best technology or other means’ because of the
15 system’s small size;

16 “(B) the public water system could not
17 comply with the maximum contaminant level
18 through use of alternate water supplies or
19 through management changes or restructuring,
20 as described in section 1419 (relating to public
21 water system viability);

22 “(C) the public water system has the ca-
23 pacity to operate and maintain BAAT; and

24 “(D) the circumstances of the public water
25 system are consistent with the public health as-

1 sumptions identified by the Administrator
2 under paragraph (3).

3 “(5) SCHEDULES.—Any variance granted by a
4 State under this subsection shall establish a schedule
5 for the installation and operation of BAAT within a
6 period not to exceed 2 years after the issuance of the
7 variance, except that the State may grant an exten-
8 sion of 1 additional year upon application by the
9 system. The application shall include a showing of
10 financial or technical need. Variances under this
11 subsection shall be for a term not to exceed 5 years
12 (including the period allowed for installation and op-
13 eration of BAAT), but may be renewed for such ad-
14 ditional 5-year periods by the State upon a finding
15 that the criteria in paragraph (4) continued to be
16 met.

17 “(6) MICROBIOLOGICAL CONTAMINANTS.—No
18 variance may be issued under this subsection for
19 microbiological contaminants.

20 “(7) REVIEW.—Any review by the Adminis-
21 trator under paragraphs (4) and (5) shall be pursu-
22 ant to subsection (a)(1)(G)(i).”.

23 (b) TECHNICAL AND CONFORMING CHANGES.—(1)
24 Section 1415 is amended by striking “best technology,
25 treatment techniques, or other means” and “best available

1 technology, treatment techniques or other means” each
2 place such terms appear and inserting in lieu thereof “best
3 technology or other means”.

4 (2) Section 1415(a)(1)(A) is amended by striking the
5 third sentence and by striking “Before a schedule pre-
6 scribed by a State pursuant to this subparagraph may
7 take effect” and all that follows down to the beginning
8 of the last sentence.

9 (3) Section 1415(a)(1)(C) is amended as follows:

10 (A) Amend the first sentence to read as follows:

11 “Before a variance is issued and a schedule is pre-
12 scribed pursuant to this subsection or subsection (e)
13 by a State, the State shall provide notice and an op-
14 portunity for a public hearing on the proposed vari-
15 ance and schedule.”.

16 (B) Insert “under this section” before the pe-
17 riod at the end of the third sentence”.

18 (4) Section 1415(a)(1)(D) is amended as follows:

19 (A) Strike “under subparagraph (A)” and in-
20 sert “under this section”.

21 (B) Strike “that subparagraph” in each place it
22 appears and insert in each such place “this section”.

23 (C) Strike the last sentence.

24 (5) Section 1415(a)(1)(F) is amended by striking “3-
25 year” and inserting “5-year” and by amending the first

1 sentence to read as follows: “Not later than 5 years after
2 the enactment of the Safe Drinking Water Act Amend-
3 ments of 1994, the Administrator shall complete a review
4 of the variances granted under this section (and the sched-
5 ules prescribed in connection with such variances).”.

6 (6) Section 1415(a)(1)(G)(i) is amended by striking
7 “subparagraph (A) or (B)” and inserting “this section”.

8 (7) Section 1415(b) is amended by striking “para-
9 graph (1)(B) or (2) of subsection (a)” and inserting “this
10 section”.

11 (8) Section 1415(c) is amended by striking “sub-
12 section (a)” and inserting “this section”.

13 (9) Section 1415(d) is amended to read as follows:
14 “(d) **[REPEALED.]**”.

15 **SEC. 11. EXEMPTIONS.**

16 (a) SYSTEMS SERVING FEWER THAN 3,300 PER-
17 SONS.—Section 1416 is amended by adding the following
18 at the end thereof:

19 “(h) SMALL SYSTEMS.—(1) For public water systems
20 serving fewer than 3,300 persons, the maximum exemp-
21 tion period shall be 4 years if the State is exercising pri-
22 mary enforcement responsibility for public water systems
23 and determines that—

24 “(A) the public water system cannot meet the
25 maximum contaminant level or install Best Available

1 Affordable Technology ('BAAT') due in either case
2 to compelling economic circumstances (taking into
3 consideration the availability of financial assistance
4 under section 1443(c), relating to State Revolving
5 Funds) or other compelling circumstances;

6 "(B) the public water system could not comply
7 with the maximum contaminant level through the
8 use of alternate water supplies;

9 "(C) the granting of the exemption will provide
10 a drinking water supply that protects public health
11 given the duration of exemption; and

12 "(D) the State has met the requirements of
13 paragraph (2).

14 "(2)(A) Before issuing an exemption under this sec-
15 tion or an extension thereof for a small public water sys-
16 tem described in paragraph (1), the State shall—

17 "(i) examine the public water system's tech-
18 nical, financial, and managerial capability (taking
19 into consideration any available financial assistance)
20 to operate in, and maintain compliance with, this
21 title, and

22 "(ii) determine if management or restructuring
23 changes (or both) can reasonably be made that will
24 result in compliance with this title or, if compliance

1 cannot be achieved, improve the quality of the drink-
2 ing water.

3 “(B) Management changes referred to in subpara-
4 graph (A) may include rate increases, accounting changes,
5 the hiring of consultants, the appointment of a technician
6 with expertise in operating such systems, contractual ar-
7 rangements for a more efficient and capable system for
8 joint operation, or other reasonable strategies to improve
9 viability.

10 “(C) Restructuring changes referred to in subpara-
11 graph (A) may include ownership change, physical consoli-
12 dation with another system, or other measures to other-
13 wise improve customer base and gain economies of scale.

14 “(D) If the State determines that management or re-
15 structuring changes referred to in subparagraph (A) can
16 reasonably be made, it shall require such changes and a
17 schedule therefore as a condition of the exemption. If the
18 State determines to the contrary, the State may still grant
19 the exemption. The decision of the State under this sub-
20 paragraph shall not be subject to review by the Adminis-
21 trator, except as provided in subsection (d).

22 “(3) Paragraphs (1) and (3) of subsection (a) shall
23 not apply to an exemption issued under this subsection.
24 Subparagraph (B) of subsection (b)(2) shall not apply to
25 an exemption issued under this subsection, but any exemp-

1 tion granted to such a system may be renewed for addi-
2 tional 4-year periods upon application of the public water
3 system and after a determination that the criteria of para-
4 graphs (1) and (2) of this subsection continue to be met.

5 “(4) No exemption may be issued under this section
6 for microbiological contaminants.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) Section 1416(b)(1) is amended by striking “prescribed
9 by a State pursuant to this subsection” and inserting
10 “prescribed by a State pursuant to this subsection or sub-
11 section (h)”.

12 (2) Section 1416(c) is amended by striking “under
13 subsection (a)” and inserting “under this section” and by
14 striking “including” in the second sentence and inserting
15 “including, in the case of an exemption under subsection
16 (a),”.

17 (3) Section 1416(d)(1) is amended by striking “3-
18 year” and inserting “4-year” and by amending the first
19 sentence to read as follows: “Not later than 4 years after
20 the date of enactment of the Safe Drinking Water Act
21 Amendments of 1994, the Administrator shall complete a
22 comprehensive review of the exemptions granted (and
23 schedules prescribed pursuant thereto) by the States dur-
24 ing the 4-year period beginning on such date.”.

25 (4) Section 1416(b)(2)(C) is repealed.

1 (c) SYSTEMS SERVING MORE THAN 3,300 PER-
2 SONS.—Section 1416(b)(2)(A)(ii) is amended by striking
3 “12 months” and inserting “4 years” and section
4 1416(b)(2)(B) is amended by striking “3 years after the
5 date of the issuance of the exemption” and inserting “4
6 years after the expiration of the initial exemption”.

7 **SEC. 12. PUBLIC WATER SYSTEM VIABILITY.**

8 Part B is amended by adding the following at the
9 end thereof:

10 **“SEC. 1419. PUBLIC WATER SYSTEM VIABILITY.**

11 “(a) EPA GUIDELINES.—Within 18 months after the
12 enactment of the Safe Drinking Water Act Amendments
13 of 1994, the Administrator shall issue guidelines for pur-
14 poses of subsection (b) for State programs to bring public
15 water systems into compliance with this title and to main-
16 tain such compliance. The guidelines shall be developed
17 in consultation with the States.

18 “(b) STATE PROGRAMS TO ASSURE VIABILITY.—
19 Within 2 years after issuance of guidelines under sub-
20 section (a), each State exercising primary enforcement re-
21 sponsibility for public water systems shall develop and im-
22 plement a comprehensive program to assure the viability
23 of community and noncommunity nontransient public
24 water systems within that State which are subject to the
25 provisions of subsection (e). The program shall be treated

1 as approved by the Administrator unless disapproved by
2 the Administrator within 6 months after the date of its
3 submittal. If disapproved it may be resubmitted in accord-
4 ance with section 1428(c).

5 “(c) FINANCIAL ASSISTANCE FOR SMALL SYS-
6 TEMS.—(1) Except as provided in paragraph (2), no fi-
7 nancial assistance may be provided from funds made avail-
8 able under section 1443(c) to any public water system in
9 operation on the date of enactment of the Safe Drinking
10 Water Act Amendments of 1994 that—

11 “(A) serves fewer than 10,000 persons, and

12 “(B) has a history of violations of monitoring
13 requirements or violations of national primary drink-
14 ing water regulations,

15 unless the State determines whether the public water sys-
16 tem has, or will have, the technical, managerial, and finan-
17 cial capability to operate in compliance, and maintain com-
18 pliance, with this title. Such determination shall be based
19 on such information as the public water system may pro-
20 vide to the State and such other information as may be
21 available to the State. In making such determination the
22 State shall take into consideration the financial assistance
23 which may be available to the public water system.

24 “(2)(A) If the State determines under paragraph (1)
25 that a public water system lacks the capability referred

1 to in paragraph (1), the State shall require adoption by
2 the system of management or restructuring changes or
3 both before providing funding to the system under section
4 1443(c), except as provided in subparagraph (B). Manage-
5 ment changes may include rate increases, accounting
6 changes, the hiring of consultants, the appointment of a
7 technician with expertise in operating such systems, con-
8 tractual arrangements for a more efficient and capable
9 system for joint operation, or other reasonable strategies
10 to improve viability. Restructuring changes may include
11 ownership change, physical consolidation with another sys-
12 tem, or other measures to otherwise improve customer
13 base and gain economies of scale.

14 “(B) If the State determines under paragraph (1)
15 that a system lacks the capability referred to in paragraph
16 (1), funds provided under section 1443(c) (relating to
17 State Revolving Funds) shall be available only to support
18 such physical consolidation.

19 “(d) NEW SYSTEMS.—No financial assistance of any
20 kind may be provided under this title to any public water
21 system that is established, and begins operations, in any
22 State after the enactment of the Safe Drinking Water Act
23 Amendments of 1994, unless the Administrator deter-
24 mines that the State has an effective operating permit pro-
25 gram or other means to ensure, before commencing oper-

1 ation, that the system has the management and technical
2 capacity and financial capability, taking into account its
3 customer base and other relevant factors, to comply and
4 maintain compliance with the applicable requirements of
5 this title. No change in the ownership of a public water
6 system shall result in the application of the prohibition
7 contained in this subsection to such system.

8 “(e) STATE VIABILITY ASSESSMENTS.—(1) Before
9 the end of the first full fiscal year after the enactment
10 of the Safe Drinking Water Act Amendments of 1994,
11 each State shall establish a program for assessing, over
12 a 5-year period, the long-term technical, managerial, and
13 financial capability of community and nontransient
14 noncommunity public water systems serving fewer than
15 10,000 persons that are in violation of this title or may
16 be in jeopardy of not maintaining compliance with this
17 title. The State shall establish a schedule for determining
18 which systems to include in the assessment program.

19 “(2) The assessment program referred to in para-
20 graph (1) shall include any public water system that has
21 been in significant noncompliance (as defined in guidelines
22 issued prior to the enactment of the Safe Drinking Water
23 Act Amendments of 1994 or any revisions thereof and in
24 national primary drinking water regulations promulgated
25 after such date of enactment) or violated any maximum

1 contaminant level or treatment technique, any variance,
2 or any exemption under this title during the 2 years prior
3 to the date on which the State makes a determination (in
4 accordance with the schedule under in paragraph (1)) re-
5 garding whether to include such system in the assessment
6 program.

7 “(3) For all public water systems referred to in para-
8 graph (1) (other than those referred to in paragraph (2)),
9 the State shall establish, in consultation with the Adminis-
10 trator, a system of priorities, as part of the program for
11 conducting assessments, where there has been other non-
12 compliance during such 2-year period which the State con-
13 siders serious. The State shall publish such priorities and
14 file them with the Administrator. The State, in its discre-
15 tion and considering its resources, may, but is not required
16 to, conduct assessments of public water systems which are
17 in compliance during such period.

18 “(f) WAIVER.—The Administrator may waive any re-
19 quirements of this section in the case of a State viability
20 program adopted before the enactment of this section if
21 the Administrator finds that such State viability program
22 is fully achieving the objectives of this section.

23 “(g) AVAILABILITY OF SRF FUNDS.—Unless the
24 State has—

1 administrator shall publish guidance for States exercis-
2 ing primary enforcement responsibility for public
3 water systems to carry out directly or through dele-
4 gation (for the protection and benefit of public water
5 systems and for the support of monitoring flexibility)
6 a source water assessment program within the
7 State's boundaries.

8 “(2) PROGRAM REQUIREMENTS.—A source
9 water assessment program under this subsection
10 shall—

11 “(A) delineate the boundaries of the as-
12 sessment areas in such State from which one or
13 more public water systems in the State receive
14 supplies of drinking water, using all reasonably
15 available hydrogeologic information on the
16 sources of the supply of drinking water in the
17 State and the water flow, recharge, and dis-
18 charge and any other reliable information as
19 the State deems necessary to adequately deter-
20 mine such areas; and

21 “(B) identify for contaminants regulated
22 under this title for which monitoring is required
23 under this title (or any unregulated contami-
24 nants which the State, for the purposes of this
25 subsection, has determined to present an urgent

1 threat to public health), to the extent practical,
2 the origins within each delineated area of such
3 contaminants to determine the susceptibility of
4 the public water systems in the delineated area
5 to such contaminants.

6 “(3) APPROVAL, IMPLEMENTATION, AND MON-
7 ITORING RELIEF.—A State source water assessment
8 program under this subsection shall be submitted to
9 the Administrator within 18 months after the Ad-
10 ministrator’s guidance is issued under this sub-
11 section and shall be deemed approved 9 months
12 after the date of such submittal unless the Adminis-
13 trator disapproves the program as provided in sub-
14 section (c). States shall begin implementation of the
15 program immediately after its approval. The Admin-
16 istrator’s approval of a State program under this
17 subsection shall include a timetable, established in
18 consultation with the State, allowing not more than
19 2 years for completion after approval of the pro-
20 gram. Public water systems seeking monitoring relief
21 in addition to the interim relief provided under sec-
22 tion 1418(a) shall be eligible for monitoring relief,
23 consistent with section 1418(b), upon completion of
24 the assessment in the delineated source water as-
25 sessment area or areas concerned.

1 “(4) TIMETABLE.—The timetable referred to in
2 paragraph (3) shall take into consideration the avail-
3 ability to the State of funds under section 1443(c)
4 (relating to State Revolving Funds) for assessments
5 and other relevant factors. The Administrator may
6 extend any timetable included in a State program
7 approved under paragraph (3) to extend the period
8 for completion by an additional 18 months. The
9 timetable shall be deemed to be part of the guidance
10 published under paragraph (1) and shall be subject
11 to section 1450(j). Compliance with subsection (g)
12 shall not affect any State permanent monitoring
13 flexibility program approved under section 1418(b).
14 To avoid duplication and to encourage efficiency, the
15 program shall, to the extent practicable, be coordi-
16 nated with other existing programs and mechanisms,
17 including the wellhead protection program, vulner-
18 ability assessments, sanitary surveys, and monitor-
19 ing programs.

20 “(5) DEMONSTRATION PROJECT.—The Admin-
21 istrator shall, as soon as practicable, conduct a dem-
22 onstration project, in consultation with other Fed-
23 eral agencies, to demonstrate the most effective and
24 protective means of assessing and protecting source

1 waters serving large metropolitan areas and located
2 on Federal lands.

3 “(m) PETITION PROGRAM.—

4 “(1) SUBMISSION OF PETITIONS.—Within 18
5 months after publication by the Administrator of
6 guidance under subsection (l), each State exercising
7 primary enforcement responsibility shall adopt and
8 submit to the Administrator a source water petition
9 program. A petition under such program may re-
10 quest that the State assist in addressing the origins
11 of contaminants regulated under this title (or un-
12 regulated contaminants for which the State has de-
13 termined, for purposes of this section, that there is
14 an urgent threat to public health) and that are not
15 adequately addressed by the wellhead protection pro-
16 gram or other programs. The origins of such con-
17 taminants may include, to the extent practicable, the
18 specific activities that affect the drinking water sup-
19 ply of a community. Such program shall also include
20 provisions for voluntary partnerships, including
21 those in which public water systems and local gov-
22 ernments participate and submit petitions. The pro-
23 gram shall provide for public notice of petitions.

24 “(2) CONTENTS OF PETITIONS.—Petitions sub-
25 mitted to the State under this subsection may seek

1 assistance in directing, or redirecting, consistent
2 with applicable program authorities administrative,
3 technical, or financial resources to address the ori-
4 gins of drinking water contaminants regulated under
5 this title (or unregulated contaminants for which the
6 State has determined, for purposes of this section,
7 that there is an urgent threat to public health) and
8 that are not adequately addressed by the wellhead
9 protection program or other programs. Any such pe-
10 tition shall, at a minimum—

11 “(A) include delineation of the source
12 water area covered by the petition, based on the
13 source water assessment delineation areas set
14 forth in subsection (l)(2)(A);

15 “(B) based on reasonably available data,
16 identify the nature of the problem that is the
17 basis for the petition;

18 “(C) to the extent practicable, identify the
19 origins of such drinking water contaminants;
20 and

21 “(D) identify any missing data necessary
22 to adequately characterize the problem that is
23 the basis of the petition.

24 Identification of a contaminant or contaminants in
25 a petition shall be contaminant specific. Contami-

1 nants may be combined in a single petition. The
2 State may elect to waive the requirement for the pe-
3 titioner to meet subparagraph (D).

4 “(3) RESPONSE TO PETITIONS.—Each State re-
5 ceiving a petition under this subsection shall respond
6 to the petition in an expeditious manner unless the
7 State determines, in its discretion, that the petition
8 is frivolous. The State response may include, as ap-
9 appropriate, utilization and coordination of programs,
10 technical assistance, financial assistance, education,
11 training, contingency plans and demonstration
12 projects for the delineated areas to protect the
13 drinking water supply of systems within those areas
14 from such contaminants. Nothing in this paragraph
15 is intended or shall be interpreted to create or con-
16 vey any new authority in any State, political subdivi-
17 sion of a State, or public water system for any con-
18 trol measure or limit in any way any authority of a
19 State, political subdivision of a State, or water sys-
20 tem.

21 “(4) APPROVAL OF PETITION PROGRAM.—The
22 Administrator’s approval of a State source water pe-
23 tition program under this subsection is not required
24 unless the State uses grant funds under section
25 1443(c) (relating to State Revolving Funds) to

1 adopt and implement the program. The State may
2 use grants allotted to the State under section
3 1443(c) for such purposes only with the approval of
4 the Administrator. If adopted with the use of funds
5 made available under section 1443(c) by a State ex-
6 ercising primary enforcement responsibility for pub-
7 lic water systems, the State shall comply with the
8 delineation requirements set forth in subsection
9 (l)(2)(A) and the program shall contain, as appro-
10 priate, one or more of the elements referred to in
11 section 1428(a)(4).”.

12 (b) PUBLIC PARTICIPATION.—Subsection (b) of sec-
13 tion 1428 is amended by adding the following at the end
14 thereof: “No funds shall be available to the State under
15 section 1443(c) (relating to State Revolving Funds) for
16 the purpose of carrying out a State source water petition
17 program unless the State procedures referred to in this
18 section also apply to any State source water petition pro-
19 gram adopted under subsection (m).”.

20 (c) APPROVAL AND DISAPPROVAL OF STATE PRO-
21 GRAMS.—Section 1428 is amended as follows:

22 (1) Amend the first sentence of subsection
23 (c)(1) to read as follows: “If, in the judgment of the
24 Administrator, a State program or portion thereof
25 under subsection (a) is not adequate to protect pub-

1 lic water systems as required by subsection (a) or a
2 State program under subsection (l) or (m) or section
3 1418(b) does not meet the applicable requirements
4 of subsection (l), (m) or section 1418(b), the Admin-
5 istrator shall disapprove such program or portion
6 thereof.”.

7 (2) Add after the second sentence of subsection
8 (c)(1) the following: “A State program developed
9 pursuant to subsection (l) or (m) or section 1418(b)
10 shall be deemed to meet the applicable requirements
11 of subsection (l), (m) or section 1418(b) unless the
12 Administrator determines within 9 months of the re-
13 ceipt of the program that such program (or portion
14 thereof) does not meet such requirements.”.

15 (3) In the third sentence of subsection (c)(1)
16 and in subsection (c)(2) strike “is inadequate” and
17 insert “is disapproved”.

18 (4) Add the following at the end of subsection
19 (c)(1): “Notwithstanding any other provision of this
20 subsection, the provisions of this subsection shall
21 apply to source water petition programs under sub-
22 section (m) only if the State uses grants under sec-
23 tion 1443(c) (relating to State Revolving Funds) for
24 such program.”.

1 (5) In subsection (b), add the following before
2 the period at the end of the first sentence: “and
3 source water assessment programs under subsection
4 (l)”.

5 (6) In subsection (g)—

6 (A) insert after “under this section” the
7 following: “, State source water assessment pro-
8 grams under subsection (l) and State petition
9 programs under subsection (m) for which the
10 State uses grants under section 1443(c) (relat-
11 ing to State Revolving Funds)”;

12 (B) strike “Such” in the last sentence and
13 inserting “In the case of wellhead protection
14 programs, such”.

15 **SEC. 14. MONITORING OF REGULATED CONTAMINANTS.**

16 Part B is amended by adding the following after sec-
17 tion 1417:

18 **“SEC. 1418. MONITORING OF CONTAMINANTS.**

19 “(a) INTERIM MONITORING RELIEF AUTHORITY.—

20 (1) A State exercising primary enforcement responsibility
21 for public water systems may modify the monitoring re-
22 quirements for—

23 “(A) regulated chemical pesticide contaminants,

24 “(B) polychlorinated byphenyls,

25 “(C) dioxin, and

1 “(D) unregulated contaminants for which mon-
2 itoring is required under phase II as set forth on
3 January 30, 1991, in volume 56 of the Federal Reg-
4 ister, page 3526 and phase V as set forth on July
5 17, 1992, in volume 57 of the Federal Register,
6 page 31776

7 for an interim period to provide that any public water sys-
8 tem serving 3,300 persons or fewer shall not be required
9 to conduct additional quarterly monitoring during an in-
10 terim relief period for such contaminants if—

11 “(i) monitoring, conducted at the beginning of
12 the period for the contaminant concerned and cer-
13 tified to the State by the public water system, fails
14 to detect the presence of the contaminant in the
15 ground or surface water supplying the public water
16 system, and

17 “(ii) the State, (considering the hydrogeology of
18 the area and other relevant factors), determines in
19 writing that the contaminant is unlikely to be de-
20 tected by further monitoring during such period.

21 “(2) The interim relief period referred to in para-
22 graph (1) shall terminate when permanent monitoring re-
23 lief is adopted and approved for such State, or at the end
24 of 36 months after the enactment of the Safe Drinking
25 Water Act Amendments of 1994, whichever comes first.

1 In order to serve as a basis for interim relief, the monitor-
2 ing conducted at the beginning of the period must occur
3 at the time determined by the State to be the time of the
4 public water system's greatest vulnerability to the con-
5 taminant concerned in the relevant ground or surface
6 water, taking into account in the case of pesticides the
7 time of application of the pesticide for the source water
8 area and the travel time for the pesticide to reach such
9 waters and taking into account, in the case of other con-
10 taminants, seasonality of precipitation and contaminant
11 travel time.

12 “(b) PERMANENT MONITORING RELIEF AUTHOR-
13 ITY.—(1) Each State exercising primary enforcement re-
14 sponsibility for public water systems under this title and
15 having an approved wellhead protection program and a
16 source water assessment program may adopt, in accord-
17 ance with guidance published by the Administrator, and
18 submit to the Administrator as provided in section
19 1428(c), tailored alternative monitoring requirements for
20 public water systems in such State (as an alternative to
21 the monitoring requirements specified in the Administra-
22 tor's standardized monitoring framework for chemical con-
23 taminants and the applicable national primary drinking
24 water regulations) where the State concludes that (based
25 on data available at the time of adoption concerning sus-

1 ceptibility, use, occurrence, wellhead protection, or from
2 the State's drinking water source water assessment pro-
3 gram) such alternative monitoring would provide assur-
4 ance that it complies with the Administrator's guidelines.
5 The State program must be adequate to assure compliance
6 with, and enforcement of, applicable national primary
7 drinking water regulations. Alternative monitoring shall
8 not apply to regulated microbiological contaminants, dis-
9 infectants and disinfection by-products, or corrosion by-
10 products. The preceding sentence is not intended to limit
11 other authority of the Administrator under other provi-
12 sions of this title to grant monitoring flexibility.

13 “(2)(A) The Administrator shall issue, after notice
14 and comment and at the same time as guidelines are is-
15 sued for source water assessment under section 1428(l),
16 guidelines for States to follow in proposing alternative re-
17 quirements to the standardized monitoring framework for
18 chemical contaminants. The Administrator shall publish
19 such framework in the Federal Register. The guidelines
20 shall assure that the public health will be protected from
21 drinking water contamination. The guidelines shall require
22 that a State alternative monitoring program apply on a
23 contaminant-by-contaminant basis and that, to be eligible
24 for such alternative monitoring program, a public water
25 system must show the State that the contaminant is not

1 present in the drinking water supply or, if present, it is
2 reliably and consistently below the maximum contaminant
3 level.

4 “(B) For purposes of subparagraph (A), the phrase
5 ‘reliably and consistently below the maximum contaminant
6 level’ means that, although contaminants have been de-
7 tected in a water supply, the State has sufficient knowl-
8 edge of the contamination source and extent of contamina-
9 tion to predict that the maximum contaminant level will
10 not be exceeded. In determining that a contaminant is reli-
11 ably and consistently below the maximum contaminant
12 level, States shall consider the quality and completeness
13 of data, the length of time covered and the volatility or
14 stability of monitoring results during that time, and the
15 proximity of such results to the maximum contaminant
16 level. Wide variations in the analytical results, or analyt-
17 ical results close to the maximum contaminant level, shall
18 not be considered to be reliably and consistently below the
19 maximum contaminant level.

20 “(3) The guidelines issued by the Administrator
21 under paragraph (2) shall require that if, after the mon-
22 itoring program is in effect and operating, a contaminant
23 covered by the alternative monitoring program is detected
24 at levels at or above the maximum contaminant level or

1 is no longer reliably or consistently below the maximum
2 contaminant level, the public water system must either—

3 “(A) demonstrate that the contamination
4 source has been removed or that other action has
5 been taken to eliminate the contamination problem,
6 or

7 “(B) test for the detected contaminant pursu-
8 ant to the applicable national primary drinking
9 water regulation.

10 “(c) TREATMENT AS NPDWR.—All monitoring relief
11 granted by a State to a public water system for a regu-
12 lated contaminant under subsection (a) or (b) shall be
13 treated as part of the national primary drinking water reg-
14 ulation for that contaminant.

15 “(d) OTHER MONITORING RELIEF.—Nothing in this
16 section shall be construed to affect the authority of the
17 States under the standard monitoring framework for
18 chemical contaminants and under applicable national pri-
19 mary drinking water regulations to alter monitoring re-
20 quirements through waivers in effect at the time of the
21 enactment of the Safe Drinking Water Act Amendments
22 of 1994. States are encouraged to use such authority.”.

23 **SEC. 15. FEDERAL FACILITIES.**

24 (a) IN GENERAL.—Part C is amended by adding at
25 the end thereof the following new section:

1 **“SEC. 1429. FEDERAL FACILITIES.**

2 “(a) IN GENERAL.—Each department, agency, and
3 instrumentality of the executive, legislative, and judicial
4 branches of the Federal Government—

5 “(1) owning or operating any facility in a well-
6 head protection area,

7 “(2) engaged in any activity at such facility re-
8 sulting, or which may result, in the contamination of
9 water supplies in any such area, or

10 “(3) owning or operating any public water sys-
11 tem

12 shall be subject to, and comply with, all Federal, State,
13 interstate, and local requirements, both substantive and
14 procedural (including any requirement for permits or re-
15 porting or any provisions for injunctive relief and such
16 sanctions as may be imposed by a court to enforce such
17 relief), respecting the protection of such wellhead areas
18 and respecting such public water systems in the same
19 manner and to the same extent as any person is subject
20 to such requirements, including the payment of reasonable
21 service charges. The Federal, State, interstate, and local
22 substantive and procedural requirements referred to in
23 this subsection include, but are not limited to, all adminis-
24 trative orders and all civil and administrative penalties
25 and fines, regardless of whether such penalties or fines
26 are punitive or coercive in nature or are imposed for iso-

1 lated, intermittent, or continuing violations. The United
2 States hereby expressly waives any immunity otherwise
3 applicable to the United States with respect to any such
4 substantive or procedural requirement (including, but not
5 limited to, any injunctive relief, administrative order or
6 civil or administrative penalty or fine referred to in the
7 preceding sentence, or reasonable service charge). The rea-
8 sonable service charges referred to in this subsection in-
9 clude, but are not limited to, fees or charges assessed in
10 connection with the processing and issuance of permits,
11 renewal of permits, amendments to permits, review of
12 plans, studies, and other documents, and inspection and
13 monitoring of facilities, as well as any other nondiscrim-
14 inatory charges that are assessed in connection with a
15 Federal, State, interstate, or local regulatory program re-
16 specting the protection of wellhead areas or public water
17 systems. Neither the United States, nor any agent, em-
18 ployee, or officer thereof, shall be immune or exempt from
19 any process or sanction of any State or Federal Court with
20 respect to the enforcement of any such injunctive relief.
21 No agent, employee, or officer of the United States shall
22 be personally liable for any civil penalty under any Fed-
23 eral, State, interstate, or local law concerning the protec-
24 tion of wellhead areas or public water systems with respect
25 to any act or omission within the scope of the official du-

1 ties of the agent, employee, or officer. An agent, employee,
2 or officer of the United States shall be subject to any
3 criminal sanction (including, but not limited to, any fine
4 or imprisonment) under any Federal or State requirement
5 adopted pursuant to this title, but no department, agency,
6 or instrumentality of the executive, legislative, or judicial
7 branch of the Federal Government shall be subject to any
8 such sanction. The President may exempt any facility of
9 any department, agency, or instrumentality in the execu-
10 tive branch from compliance with such a requirement if
11 he determines it to be in the paramount interest of the
12 United States to do so. No such exemption shall be grant-
13 ed due to lack of appropriation unless the President shall
14 have specifically requested such appropriation as a part
15 of the budgetary process and the Congress shall have
16 failed to make available such requested appropriation. Any
17 exemption shall be for a period not in excess of 1 year,
18 but additional exemptions may be granted for periods not
19 to exceed 1 year upon the President's making a new deter-
20 mination. The President shall report each January to the
21 Congress all exemptions from the requirements of this sec-
22 tion granted during the preceding calendar year, together
23 with his reason for granting each such exemption.

24 “(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

25 (1) The Administrator may commence an administrative

1 enforcement action against any department, agency, or in-
2 strumentality of the executive, legislative, or judicial
3 branch of the Federal Government subject to the provi-
4 sions of subsection (a) pursuant to the enforcement au-
5 thorities contained in this title. The Administrator shall
6 initiate an administrative enforcement action against such
7 a department, agency, or instrumentality in the same
8 manner and under the same circumstances as an action
9 would be initiated against another person. Any voluntary
10 resolution or settlement of such an action shall be set forth
11 in a consent order.

12 “(2) No administrative order issued to such a depart-
13 ment, agency, or instrumentality shall become final until
14 such department, agency, or instrumentality has had the
15 opportunity to confer with the Administrator.

16 “(c) LIMITATION ON STATE USE OF FUNDS COL-
17 LECTED FROM FEDERAL GOVERNMENT.—Unless a State
18 law in effect on the date of the enactment of the Safe
19 Drinking Water Act Amendments of 1994 or a State con-
20 stitution requires the funds to be used in a different man-
21 ner, all funds collected by a State from the Federal Gov-
22 ernment from penalties and fines imposed for violation of
23 any substantive or procedural requirement referred to in
24 subsection (a) shall be used by the State only for projects
25 designed to improve or protect the environment or to de-

1 fray the costs of environmental protection or enforce-
2 ment.”.

3 (b) CONFORMING AMENDMENTS.—Section 1447(a) is
4 amended as follows:

5 (1) By striking out “(1) having jurisdiction over
6 any federally owned or maintained public water sys-
7 tem or (2)”.

8 (2) By striking out “respecting the provision of
9 safe drinking water and”.

10 (3) Section 1447(c) is amended by striking out
11 “the Safe Drinking Water Amendments of 1977”
12 and inserting “this title” and by striking “this Act”
13 and inserting “this title”.

14 **SEC. 16. EMERGENCY POWERS.**

15 Section 1431(b) is amended by striking out “\$5,000”
16 and inserting in lieu thereof “\$15,000”.

17 **SEC. 17. TAMPERING.**

18 Section 1432 is amended as follows:

19 (1) In subsection (d), by striking “or” at the
20 end of paragraph (1) and by striking paragraph (2)
21 and inserting the following:

22 “(2) to knowingly and deliberately interfere
23 with the operation of a public water system with the
24 intent to cause economic harm to the system or
25 cause the system to violate this title; or

1 “(3) to knowingly and deliberately render inac-
2 curate a monitoring device with the intent to falsify
3 monitoring results.”.

4 (2) By adding at the end the following:

5 “(e) FAILURE TO REPORT.—Any owner or operator
6 of a public water system who knowingly and deliberately
7 fails to report for more than 90 days to the State with
8 primary enforcement responsibility for public water sys-
9 tems, or to the public as required by this title, or to the
10 Administrator, a violation of a maximum contaminant
11 level or treatment technique shall be subject to a fine of
12 not more than \$10,000, imprisonment for not more than
13 2 years, or both, except that failure to comply with the
14 exact form and contents of a notice shall not be considered
15 a failure to report which is subject to enforcement under
16 this subsection.

17 “(f) FALSE STATEMENTS.—State requirements ap-
18 plicable to public water systems in States with primary
19 enforcement responsibility for public water systems under
20 this title, or requirements of the Administrator under this
21 title, respecting statements, representations, writings, or
22 documents shall be construed to be subject to the provi-
23 sions of section 1001 of title 18 of the United States Code
24 and for such purposes such requirements shall be treated
25 as a matter within the jurisdiction of a department or

1 agency of the United States and solely for that purpose
2 such State shall be treated as a Federal department or
3 agency.”.

4 **SEC. 18. FUNDS FOR SAFE DRINKING WATER.**

5 (a) STATE REVOLVING FUNDS.—Section 1443 is
6 amended by redesignating subsection (c) as subsection (d)
7 and by adding the following new subsection after sub-
8 section (b):

9 “(c) STATE REVOLVING FUNDS.—

10 “(1) GENERAL AUTHORITY.—

11 “(A) GRANTS TO STATES TO ESTABLISH
12 REVOLVING FUNDS.—The Administrator shall
13 enter into agreements with States to make cap-
14 italization grants, including letters of credit, to
15 the States under this subsection solely to fur-
16 ther the health protection objectives of this
17 title, promote the efficient use of fund re-
18 sources, and for such other purposes as speci-
19 fied in this title. The grants shall be deposited
20 in drinking water treatment revolving funds es-
21 tablished by the State, except as otherwise pro-
22 vided in this subsection and in other provisions
23 of this title. No portion of any specific percent-
24 age amount of such grants referred to in para-
25 graph (5), (8), or (9) or authorized by other

1 provisions of this title to be used for other pur-
2 poses specified in this title shall be deposited in
3 any State revolving fund. All such grants shall
4 be allotted to the States in the same manner as
5 funds are allotted to States under subsection
6 (a)(4), except as provided in paragraph (8) and
7 except that the State allotment for a State not
8 exercising primary enforcement responsibility
9 for public water systems shall not be deposited
10 in any such fund but shall be allotted by the
11 Administrator as follows: 30 percent of such al-
12 lotment shall be available to the Administrator
13 as needed to exercise primary enforcement re-
14 sponsibility under this title in such State and
15 the remainder shall be reallocated to States exer-
16 cising primary enforcement responsibility for
17 public water systems for deposit in such funds.
18 Whenever the Administrator makes a final de-
19 termination pursuant to section 1413(b) that
20 the requirements of section 1413(a) are no
21 longer being met by a State, additional grants
22 for such State under this title shall be imme-
23 diately terminated by the Administrator.

24 “(B) USE OF FUNDS.—Except as other-
25 wise authorized by this title, amounts deposited

1 in such revolving funds, including loan repay-
2 ments and interest earned on such amounts,
3 shall be used only for providing loans or other
4 financial assistance of any kind or nature that
5 the State deems appropriate to public water
6 systems. Such financial assistance may be used
7 by a public water system only for expenditures
8 (not including monitoring, operation, and main-
9 tenance expenditures) of a type or category
10 which the Administrator has determined,
11 through guidance, will facilitate compliance with
12 national primary drinking water regulations ap-
13 plicable to such system under section 1412 or
14 otherwise significantly further the health pro-
15 tection objectives of this title. Such financial as-
16 sistance may be used for acquisition from will-
17 ing sellers, at fair market value, of real prop-
18 erty or interests therein which are integral to
19 such systems. 15 percent of the amount cred-
20 ited to any revolving fund established under
21 this section in any fiscal year shall be available
22 solely for providing loan assistance to public
23 water systems which regularly serve fewer than
24 10,000 persons.

1 “(C) FUND MANAGEMENT.—Each State
2 revolving fund under this subsection shall be es-
3 tablished, maintained, and credited with repay-
4 ments and interest. The fund corpus shall be
5 available in perpetuity for providing financial
6 assistance under this section. To the extent
7 amounts in each such fund are not required for
8 current obligation or expenditure, such amounts
9 shall be invested in interest bearing obligations
10 of the State or of the United States.

11 “(D) GRANTS FROM REVOLVING FUNDS.—
12 A State may not provide assistance in the form
13 of grants from a State revolving fund estab-
14 lished under this subsection in an aggregate
15 amount which exceeds the sum of the interest
16 collected on deposits in such State revolving
17 fund plus amounts deposited in such fund by
18 the State pursuant to paragraph (3). Such
19 grants may only be made to public water sys-
20 tems owned by a governmental or inter-govern-
21 mental agency, a non-profit organization, an In-
22 dian tribe, or any combination thereof which
23 the State finds to be experiencing financial
24 hardship.

1 “(E) INVESTOR-OWNED PUBLIC WATER
2 SYSTEMS.—In the case of any public water sys-
3 tem not owned by a governmental or inter-gov-
4 ernmental agency, a non-profit organization, an
5 Indian tribe, or any combination thereof, the
6 State may provide assistance from a State re-
7 volving fund under this subsection according to
8 priorities established by the State based on the
9 greatest public health needs and financial need.
10 The State may provide loan assistance to any
11 such system from such a State revolving fund
12 only after making a determination that the sys-
13 tem has the ability to repay the loan according
14 to its terms and conditions. States are author-
15 ized to require such systems to identify a dedi-
16 cated source for repayment of the loans and to
17 impose such other requirements as may be nec-
18 essary to assure loan repayment.

19 “(2) SPECIFIC REQUIREMENT.—No loan or
20 other financial assistance may be provided to a pub-
21 lic water system from a revolving fund established
22 under this subsection to be used for any expenditure
23 that could be avoided or significantly reduced by ap-
24 propriate consolidation of that public water system
25 with any other public water system, except that in

1 such cases such assistance may be provided from the
2 revolving fund for such consolidation.

3 “(3) STATE CONTRIBUTION.—In the case of
4 grants made after fiscal year 1995, each agreement
5 under this subsection shall require that the State de-
6 posit in the fund from State moneys an amount
7 equal to at least 20 percent of the total amount of
8 the grant to be made to the State on or before the
9 date on which the grant payment is made to the
10 State.

11 “(4) COMBINED FINANCIAL ADMINISTRATION.—
12 Notwithstanding subparagraph (C) of paragraph
13 (1), a State may (as a convenience and to avoid un-
14 necessary administrative costs) combine, in accord-
15 ance with State law, the financial administration of
16 a revolving fund established under this subsection
17 with the financial administration of any other revolv-
18 ing fund established by the State if otherwise not
19 prohibited by the law under which such revolving
20 fund was established and if the Administrator deter-
21 mines that—

22 “(A) the grants under this subsection, to-
23 gether with loan repayments and interest, will
24 be separately accounted for and used solely for
25 the purposes specified in paragraph (1); and

1 “(B) the authority to establish assistance
2 priorities and carry out oversight and related
3 activities (other than financial administration)
4 with respect to such assistance remains with
5 the State agency having primary responsibility
6 for administration of the State program under
7 this part.

8 “(5) ADMINISTRATION.—(A) Each State may
9 annually use up to 4 percent of the funds allotted
10 to the State under this subsection to cover the rea-
11 sonable costs of administration of the assistance pro-
12 gram under this subsection and of providing tech-
13 nical assistance to public water systems within the
14 State. For fiscal year 1995 and each fiscal year
15 thereafter, each State may use up to an additional
16 5 percent of the funds allotted to the State under
17 this subsection for public water system supervision if
18 the State matches such expenditures with at least an
19 equal amount of non-Federal funds. At least half of
20 such match must be additional to the amount ex-
21 pended by the State for public water supervision in
22 fiscal year 1993. An additional 1 percent of the
23 funds annually allotted to the State under this sub-
24 section shall be used by each State to provide tech-

1 nical assistance to public water systems in such
2 State.

3 “(B) The Administrator shall publish such
4 guidance and promulgate such regulations as may be
5 necessary to carry out the provisions of this section,
6 including—

7 “(i) provisions to ensure that each State
8 commits and expends funds allotted to the
9 State under this subsection as efficiently as
10 possible in accordance with this title and appli-
11 cable State laws,

12 “(ii) guidance to prevent waste, fraud, and
13 abuse, and

14 “(iii) guidance to avoid the use of funds
15 made available under this subsection to finance
16 the expansion of any public water system in an-
17 ticipation of future population growth.

18 Such guidance and regulations shall also insure that
19 the States, and public water systems receiving as-
20 sistance under this subsection, use accounting, audit,
21 and fiscal procedures that conform to generally ac-
22 cepted accounting standards.

23 “(C) Each State administering a revolving fund
24 and assistance program under this subsection shall
25 publish and submit to the Administrator a report

1 every 2 years on its activities under this subsection,
2 including the findings of the most recent audit of
3 the fund and the entire State allotment. The Admin-
4 istrator shall periodically audit all revolving funds
5 established by, and all other amounts allotted to, the
6 States pursuant to this subsection in accordance
7 with procedures established by the Comptroller Gen-
8 eral.

9 “(6) NEEDS SURVEY.—The Administrator shall
10 conduct an assessment of financial needs of all pub-
11 lic water systems in the United States and submit
12 a report to the Congress containing the results of
13 such assessment within 2 years after the date of the
14 enactment of the Safe Drinking Water Act Amend-
15 ments of 1994. The Administrator shall revise such
16 report periodically as appropriate.

17 “(7) INDIAN TRIBES.—1½ percent of the
18 amounts appropriated annually to carry out this
19 subsection may be used by the Administrator to
20 make grants to Indian Tribes and Alaskan Native
21 Villages which are not otherwise eligible to receive
22 either grants from the Administrator under this sub-
23 section or assistance from State revolving funds es-
24 tablished under this subsection. Such grants may
25 only be used for expenditures by such tribes and vil-

1 lages for public water system expenditures referred
2 to in paragraph (1)(B).

3 “(8) OTHER AREAS.—Of the funds annually
4 available under this section for grants to States, the
5 Administrator shall make allotments in accordance
6 with section 1443(a)(4) for the District of Columbia,
7 the Virgin Islands, the Commonwealth of the North-
8 ern Mariana Islands, American Samoa, Guam, and
9 the Republic of Palau. The grants allotted as pro-
10 vided in this paragraph may be provided by the Ad-
11 ministrator to the governments of such areas, to
12 public water systems in such areas, or to both, to be
13 used for the public water system expenditures re-
14 ferred to in paragraph (1)(B). Such grants shall not
15 be deposited in revolving funds. The total allotment
16 of grants under this subsection for all areas de-
17 scribed in this paragraph in any fiscal year shall not
18 exceed 1 percent of the aggregate amount made
19 available to carry out this subsection in that fiscal
20 year.

21 “(9) ADDITIONAL SET-ASIDES.—Any State ex-
22 ercising primary enforcement responsibility for pub-
23 lic water systems may use up to 4 percent of the an-
24 nual grants under this subsection allotted to that
25 State for the following:

1 “(A) To establish and implement wellhead
2 protection programs under section 1428.

3 “(B) For a period of 5 years after the Ad-
4 ministrator publishes guidance under section
5 1428(l), to establish and implement source
6 water assessment programs under section 1428.

7 “(C) For a 7-fiscal year period after guide-
8 lines are issued under section 1419(a), to de-
9 velop and implement a viability program under
10 section 1419(b) and assess viability under sec-
11 tion 1419(e).

12 Not more than 2 percent of such annual grant allot-
13 ment for any such State in any fiscal year may be
14 used by that State for purpose of subparagraph (C).
15 If any State exercising primary enforcement respon-
16 sibility for public water systems adopts a petition
17 program under section 1428(m), the State may use
18 not more than 1 percent of the grant under this sub-
19 section allotted to the State in any fiscal year for es-
20 tablishing and implementing such program. No such
21 funds shall be used for such a petition program if
22 the State fails to implement the program.

23 “(10) DEMONSTRATION PROJECT FOR STATE
24 OF VIRGINIA.—Notwithstanding the other provisions
25 of this subsection limiting the use of funds deposited

1 in a State revolving fund from any State allotment,
2 the State of Virginia may, as a single demonstration
3 and with the approval of the Virginia General As-
4 sembly and the Administrator, conduct a program to
5 demonstrate alternative approaches to intergovern-
6 mental coordination to assist in the financing of new
7 drinking water facilities in the following rural com-
8 munities in southwestern Virginia where none exists
9 on the date of the enactment of the Safe Drinking
10 Water Act Amendments of 1994 and where such
11 communities are experiencing economic hardship:
12 Lee County, Wise County, Scott County, Dickenson
13 County, Russell County, Buchanan County, Tazewell
14 County, and the city of Norton, Virginia. The funds
15 allotted to that State and deposited in the State re-
16 volving fund may be loaned to a regional endowment
17 fund for the purpose set forth in this paragraph
18 under a plan to be approved by the Administrator.
19 The plan may include an advisory group that in-
20 cludes representatives of such counties.

21 “(11) AUTHORIZATION OF APPROPRIATIONS.—
22 There is authorized to be appropriated to carry out
23 the purposes of this subsection \$599,000,000 for the
24 fiscal year 1994 and \$1,000,000,000 for each of the
25 fiscal years 1995, 1996, and 1997, and such sums

1 as may be necessary thereafter. Sums shall remain
2 available until expended.”.

3 (b) REPORT.—Not later than 18 months after the
4 date of the enactment of this Act, the Administrator of
5 the Environmental Protection Agency shall report to the
6 Congress, after notice and public comment, on the appro-
7 priateness of using State revolving funds under section
8 1443(c) of the Public Health Service Act for acquisition
9 of real property or interests therein from willing sellers
10 where such acquisition is undertaken in addition to, or as
11 an alternative to, system development as a means of com-
12 plying with national primary drinking water regulations.
13 The review of the use of such funds shall examine any
14 cost savings and environmental benefits for safe drinking
15 water and any problems related thereto.

16 (c) TECHNICAL ASSISTANCE.—(1) The Adminis-
17 trator of the Environmental Protection Agency may pro-
18 vide technical assistance to small public water systems to
19 enable such systems to achieve and maintain compliance
20 with applicable national primary drinking water regula-
21 tions. Such assistance may include circuit-rider programs,
22 training, and preliminary engineering evaluations. There
23 is authorized to be appropriated to the Administrator to
24 be used for such technical assistance \$15,000,000 for the
25 fiscal year 1994, and such sums as may be necessary for

1 fiscal years thereafter. No portion of any State revolving
2 fund established under section 1443(c) of the Public
3 Health Service Act and no portion of any funds made
4 available under this subsection may be used either directly
5 or indirectly for lobbying expenses. Of the total amount
6 appropriated under this subsection, 3 percent shall be
7 used for technical assistance to public water systems
8 owned or operated by Indian tribes. Nothing in this Act
9 or the amendments made by this Act authorizes scientific
10 or environmental research and development.

11 (2) Section 1442(g) is amended to read as follows:

12 “(g) **[RESERVED]**.”

13 (d) PUBLIC WATER SYSTEMS SUPERVISION
14 GRANTS.—Section 1443(a) is amended as follows:

15 (1) Paragraph (4) is amended by adding the
16 following at the end thereof: “The allotment of grant
17 funds under this subsection for States not exercising
18 primary enforcement responsibility for public water
19 systems shall not be provided to such States but
20 shall be available to the Administrator for the costs
21 of administering this title in those States.”

22 (2) Paragraph (7) is amended by striking out
23 “not more than the following amounts” and all that
24 follows down through the end of such paragraph and

1 inserting “such sums as may be necessary for fiscal
2 years after fiscal year 1994.”.

3 **SEC. 19. RECORDS AND INSPECTIONS.**

4 (a) REQUIREMENTS.—Section 1445(a)(1) is amended
5 by inserting “(A)” after “(1)” and by adding at the end
6 the following:

7 “(B) Instead of using the authority under subpara-
8 graph (A) for the purposes set forth in this paragraph or
9 subsection (b), the Administrator may, on a case-by-case
10 basis, require by certified mail any public water system
11 to provide, on a 1-time, periodic, or continuous basis, such
12 records, reports, and information as the Administrator
13 may reasonably require in determining whether such sys-
14 tem has acted or is acting in compliance with this title.
15 The Administrator shall provide the State exercising pri-
16 mary enforcement responsibility for public water systems
17 a copy of such certified mail. This subparagraph shall not
18 be construed to change any requirements of other applica-
19 ble laws, such as the Paperwork Reduction Act of 1980.
20 Nothing in this subparagraph shall be construed to affect
21 the authority of the Administrator to use the authority
22 of subsection (b) to determine compliance with this title.”.

23 (b) PENALTIES.—Section 1445(c) is amended by
24 adding at the end the following: “Such penalty may be
25 assessed by the Administrator after notice and oppor-

1 tunity for a public hearing on the record in accordance
2 with section 554 of title 5 of the United States Code.”.

3 **SEC. 20. MONITORING FOR UNREGULATED CONTAMI-**
4 **NANTS.**

5 Section 1445(a) is amended as follows:

6 (1) By adding at the end of paragraph (2) the
7 following sentence: “Within 24 months after the en-
8 actment of the Safe Drinking Water Act Amend-
9 ments of 1994 and every 5 years thereafter, the Ad-
10 ministrator shall review and, if necessary, revise the
11 list of unregulated contaminants for which monitor-
12 ing is required.”.

13 (2) In paragraph (3), by inserting “not more
14 than 40” after “shall list” in the first sentence.

15 (3) In paragraph (4), by adding at the end
16 thereof: “Prior to the 24-month deadline established
17 under subsection (g), the State, where it is exercis-
18 ing primary enforcement responsibility for public
19 water systems under this title, shall provide the re-
20 sults of such monitoring to the Administrator for in-
21 clusion in the occurrence data base under subsection
22 (g).”.

23 **SEC. 21. OCCURRENCE DATA BASE.**

24 Section 1445 is amended by adding the following new
25 subsection at the end thereof:

1 “(g) OCCURRENCE DATA BASE.—Not later than 24
2 months after enactment of the Safe Drinking Water Act
3 Amendments of 1994, the Administrator shall assemble
4 and maintain a national drinking water occurrence data
5 base, using monitoring data on the occurrence of both reg-
6 ulated and unregulated contaminants in public water sup-
7 ply systems obtained under subsection (a) of this section,
8 and information from other public and private sources.”.

9 **SEC. 22. GENERAL PROVISIONS.**

10 (a) GUIDELINES.—Section 1450 is amended by add-
11 ing the following at the end thereof:

12 “(j) GUIDELINES.—(1) All guidelines issued by the
13 Administrator for States exercising primary enforcement
14 responsibility for public water systems for any purpose
15 pursuant to any requirement established by the Safe
16 Drinking Water Act Amendments of 1994 shall be pub-
17 lished in the Federal Register and shall remain in effect
18 until changed by the Administrator in accordance with the
19 same procedure as they were established. Such guidelines
20 shall not be considered to be rules and shall not be en-
21 forceable as rules. Adoption by a State of a program cov-
22 ered by such guidelines and approval of the program by
23 the Administrator shall be treated as an agreement by the
24 State with, and acceptance of, the guidelines.

1 “(2) Except as otherwise provided in this title, failure
2 of a State to abide by a guideline referred to in paragraph
3 (1) shall not be a basis for the State’s loss of primary
4 enforcement responsibility for public water systems.

5 “(3) The Administrator shall order a State to halt
6 use of a monitoring relief program under section 1418 to
7 which any guideline referred to in paragraph (1) applies
8 if the Administrator makes a finding, in writing, after no-
9 tice to the State, that the State has failed to comply with
10 such guideline and gives the State at least 90 days to cor-
11 rect the alleged problem.

12 “(4) The Administrator may, in the Administrator’s
13 discretion, reduce by 50 percent the amount of grants oth-
14 erwise made available to the State in any fiscal year under
15 section 1443(c) (relating to State revolving funds) if the
16 Administrator makes a finding in writing, after notice to
17 the State, that the State has failed to comply with any
18 guideline referred to in paragraph (1) and gives the State
19 at least 90 days to correct the alleged problem.”.

20 (b) WHISTLE BLOWER.—Section 1450(i) is amended
21 as follows:

22 (1) Amend paragraph (2)(A) by striking “30
23 days” and inserting “180 days” and by inserting be-
24 fore the period at the end “and the Environmental
25 Protection Agency”.

1 (2) Amend paragraph (2)(B)(i) by inserting be-
2 fore the last sentence the following: “Upon conclu-
3 sion of such hearing and the issuance of a rec-
4 ommended decision that the complaint has merit,
5 the Secretary shall issue a preliminary order provid-
6 ing the relief prescribed in clause (ii), but may not
7 order compensatory damages pending a final
8 order.”.

9 (3) Amend paragraph (2)(B)(ii) by inserting
10 “and” before “(III)” and by striking “compensatory
11 damages, and (IV) where appropriate, exemplary
12 damages” and inserting “and the Secretary may
13 order such person to provide compensatory damages
14 to the complainant”.

15 (4) Redesignate paragraphs (3), (4), (5), and
16 (6) as paragraphs (4), (5), (6), and (7), respectively,
17 and insert after paragraph (2) the following:

18 “(3)(A) The Secretary shall dismiss a complaint filed
19 under paragraph (1), and shall not conduct the investiga-
20 tion required under paragraph (2), unless the complainant
21 has made a prima facie showing that any behavior de-
22 scribed in subparagraphs (A) through (C) of paragraph
23 (1) was a contributing factor in the unfavorable personnel
24 action alleged in the complaint.

1 “(B) Notwithstanding a finding by the Secretary that
2 the complaint has made the showing required by para-
3 graph (1)(A), no investigation required under paragraph
4 (2) shall be conducted if the employer demonstrates, by
5 clear and convincing evidence, that it would have taken
6 the same unfavorable personnel action in the absence of
7 such behavior.

8 “(C) The Secretary may determine that a violation
9 of paragraph (1) has occurred only if the complainant has
10 demonstrated that any behavior described in subpara-
11 graphs (A) through (C) of paragraph (1) was a contribut-
12 ing factor in the unfavorable personnel action alleged in
13 the complaint.

14 “(D) Relief may not be ordered under paragraph (2)
15 if the employer demonstrates clear and convincing evi-
16 dence that it would have taken the same unfavorable per-
17 sonnel action in the absence of such behavior.”.

18 (5) Add at the end the following:

19 “(8) This subsection may not be construed to expand,
20 diminish, or otherwise affect any right otherwise available
21 to an employee under Federal or State law to reduce the
22 employee’s discharge or other discriminatory action taken
23 by the employer against the employee. The provisions of
24 this subsection shall be prominently posted in any place
25 of employment to which this subsection applies.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsection (b) shall apply to claims filed under section
3 1450(i) of the Public Health Service Act on or after the
4 date of the enactment of this Act.

5 **SEC. 23. ADMINISTRATIVE PENALTIES.**

6 Part E is amended by adding at the end the following
7 new section:

8 **“SEC. 1452. ADMINISTRATIVE PENALTIES.**

9 “(a) IN GENERAL.—The Administrator may assess
10 an administrative penalty for violations of section 1412,
11 1415, 1416, or 1442(h). Such a penalty may only be as-
12 sessed—

13 “(1) after providing notice (in accordance with
14 section 1414(a)(1)(A)) of at least 45 days of the Ad-
15 ministrator’s intention to assess such penalty to the
16 State exercising primary enforcement responsibility
17 for public water systems and to the public water sys-
18 tem in violation of such section, and

19 “(2) after opportunity for a hearing on the
20 record in accordance with section 554 of title 5,
21 United States Code.

22 “(b) PENALTY.—The penalty under subsection (a)
23 shall be not more than \$5,000 per day of violation. The
24 total penalty under such subsection shall not exceed—

1 “(1) \$50,000 for violation of section 1442(h)
2 (relating to minimum standards for certification of
3 operators and laboratories), or

4 “(2) \$90,000 in the case of violations of sec-
5 tions 1412, 1415, and 1416.

6 In assessing such penalties, the Administrator shall con-
7 sider the size of the public water system, the ability of
8 the system to operate in compliance with this title, the
9 seriousness of the violation, the economic impact of such
10 violation, and history of violations.”.

11 **SEC. 24. WATER RETURN.**

12 Part E is amended by adding at the end the follow-
13 ing:

14 **“SEC. 1453. WATER RETURN.**

15 “Not later than 18 months after the date of the en-
16 actment of the Safe Drinking Water Act Amendments of
17 1994, the Administrator shall issue, after public notice,
18 guidelines to assist public water systems in assessing the
19 conditions, when it is consistent with the requirements and
20 public health objectives of this title, to return water from
21 the public water system used for heat pumps and similar
22 devices to the distribution system of the public water sys-
23 tem.”.

1 **SEC. 25. WATER CONSERVATION PLAN.**

2 Part E is amended by adding at the end the follow-
3 ing:

4 **“SEC. 1454. WATER CONSERVATION PLAN.**

5 “(a) GUIDELINES.—Not later than 1 year after the
6 date of the enactment of the Safe Drinking Water Act
7 Amendments of 1994, the Administrator shall publish in
8 the Federal Register guidelines for water conservation
9 plans for public water systems serving fewer than 3,300
10 persons, public water systems serving between 3,300 and
11 10,000 persons, and public water systems serving more
12 than 10,000 persons, taking into consideration such fac-
13 tors as water availability and climate.

14 “(b) SRF LOANS OR GRANTS.—Within 1 year after
15 publication of the guidelines under subsection (a), a State
16 exercising primary enforcement responsibility for public
17 water systems may require a public water system, as a
18 condition of receiving a loan or grant from a State revolv-
19 ing fund under section 1443(c), to submit with its applica-
20 tion for such loan or grant a water conservation plan con-
21 sistent with such guidelines.”.

22 **SEC. 26. SUBMERSIBLE PUMPS; FITTINGS; AND RESIDEN-**
23 **TIAL WATER TREATMENT UNITS.**

24 Part F is amended by adding at the end the follow-
25 ing:

1 **“SEC. 1466. SUBMERSIBLE PUMPS.**

2 “(a) IN GENERAL.—(1) Except as provided in sub-
3 section (b), within 3 years after the date of the enactment
4 of the Safe Drinking Water Act Amendments of 1994 the
5 Administrator shall promulgate regulations containing a
6 health effects based performance standard establishing
7 minimal leaching levels of lead from new submersible
8 pumps reasonably anticipated to be used in domestic water
9 wells, taking into account marketing and sales information
10 and other relevant factors. Such standard shall apply to
11 new pumps manufactured for, or first introduced into,
12 interstate commerce after the effective date of the regula-
13 tion promulgating the standard.

14 “(2) At a minimum, the standard under this section
15 shall not allow lead concentration in drinking water to in-
16 crease by more than 15 parts per billion (ppb) when in
17 prolonged contact with the pump. Such standard shall be
18 effective 3 years after the date of its promulgation or at
19 such earlier time as the Administrator determines that
20 pumps subject to paragraph (1) can reasonably be antici-
21 pated to be in compliance with such standards.

22 “(b) EXCEPTION.—(1) If the Administrator deter-
23 mines, after notice and opportunity for public comment,
24 that—

1 “(A) voluntary standards have been developed
2 that are at least as protective as the minimum
3 standard described in subsection (a)(2), and

4 “(B) pumps subject to paragraph (1) of sub-
5 section (a) can reasonably be anticipated to be in
6 compliance with such voluntary standards within 6
7 years after the date of the enactment of the Safe
8 Drinking Water Act Amendments of 1994,
9 the Administrator shall not promulgate regulations estab-
10 lishing the standard under subsection (a) or, if such regu-
11 lations have been promulgated, provide that such regula-
12 tions shall not take effect or be enforced.

13 “(2) Within 2 years after the date of the enactment
14 of the Safe Drinking Water Act Amendments of 1994, the
15 Administrator shall determine, after notice and oppor-
16 tunity for public comment, whether new submersible
17 pumps which convey drinking water and which contain
18 brass alloys containing 0.2 percent lead or more are being
19 manufactured for, or first introduced into, interstate com-
20 merce. If the Administrator determines, at that time, that
21 such pumps are not being manufactured for, or first intro-
22 duced into, interstate commerce, the Administrator shall
23 not promulgate regulations establishing the standard
24 under subsection (a) or make a determination under sub-
25 section (b)(1), or if such regulations have been promul-

1 gated, provide that such regulations shall not take effect
2 or be enforced.

3 **“SEC. 1467. FITTINGS.**

4 “(a) IN GENERAL.—Within 1 year after the date of
5 the enactment of the Safe Drinking Water Act Amend-
6 ments of 1994, the Administrator shall determine if—

7 “(1) voluntary standards for new plumbing fit-
8 tings manufactured for or introduced into interstate
9 commerce which convey drinking water have been
10 developed that are at least as protective of human
11 health as the minimum performance standard pro-
12 mulgated under subsection (b), and

13 “(2) such fittings can reasonably be anticipated
14 to comply with such standards within 5 years after
15 such date of enactment.

16 “(b) REGULATIONS.—If the Administrator deter-
17 mines that such voluntary standards for new plumbing fit-
18 tings which convey drinking water have not been developed
19 or that such fittings cannot reasonably be anticipated to
20 comply, within 5 years of such date of enactment, with
21 such voluntary standards, the Administrator shall, within
22 2 years after the date of such determination, promulgate
23 regulations setting a health effects based performance
24 standard establishing minimal leaching levels of lead from
25 such new plumbing fittings. Such regulation shall take ef-

1 fect 3 years after the date of such promulgation. Under
2 such regulation, such fittings shall not cause lead con-
3 centration in drinking water to increase by more than 15
4 parts per billion when in prolonged contact with such fit-
5 ting.

6 **“SEC. 1468. ENFORCEMENT OF SECTIONS 1466 AND 1467.**

7 “(a) IN GENERAL.—Any person who manufactures or
8 first introduces in interstate commerce any new submers-
9 ible pump or new plumbing fitting which violates any re-
10 quirement established by the Administrator by regulation
11 under section 1466 or 1467, shall be liable to the United
12 States for a civil penalty in an amount not to exceed
13 \$10,000 for each such violation. To assess such civil pen-
14 alty, the Administrator shall, after notice and opportunity
15 for hearing on the record in accordance with sections 554
16 and 556 of title 5, United States Code, issue an order
17 assessing such civil penalty.

18 “(b) ACTIONS.—The Administrator may commence a
19 civil action to enjoin any violation of section 1466 or 1467
20 or to assess and recover any civil penalty under subsection
21 (a). Any such action may be brought in the district court
22 of the United States for the district in which the violation
23 is alleged to have occurred or in which the defendant re-
24 sides or has the defendant’s principal place of business.

1 Such a court shall have jurisdiction to issue injunctive re-
2 lief and to assess a civil penalty.

3 “(c) ORDER.—The Administrator may issue an order
4 to require any person to comply with any requirement of
5 section 1466 or 1467.

6 “(d) FUTURE COMPLIANCE.—The Administrator
7 shall periodically evaluate compliance with the standards
8 under sections 1466 and 1467.

9 **“SEC. 1469. RESIDENTIAL WATER TREATMENT UNITS.**

10 “(a) FTC INVESTIGATION.—The Federal Trade
11 Commission, in consultation with the Administrator of the
12 Environmental Protection Agency, shall conduct an inves-
13 tigation, pursuant to the Federal Trade Commission Act,
14 into the veracity of claims that devices manufactured, sold,
15 or distributed in interstate commerce for use in single and
16 multi-family residences will improve the quality of drink-
17 ing water or eliminate or reduce the level of 1 or more
18 drinking water contaminants (for which a national pri-
19 mary drinking water regulation is promulgated under the
20 Safe Drinking Water Act) and shall take such action pur-
21 suant to section 5 of such Act against any person who
22 introduces, delivers for introduction, sells, advertises, or
23 offers for sale, in interstate commerce, such devices as the
24 Commission deems appropriate to ensure that such claims
25 are consistent with the requirements of that Act and any

1 applicable decisions and orders of the Commission under
2 section 5 of that Act. The Commission shall, consistent
3 with the requirements of such Act, report the results of
4 its investigation and the actions it takes to the Congress
5 within 2 years after enactment of this Act. The Commis-
6 sion may, from time to time, issue rules (pursuant to sec-
7 tion 553 of title 5 of the United States Code) and any
8 violation of such rules shall be treated by the Commission
9 as a violation of a rule under section 18 of the Federal
10 Trade Commission Act (15 U.S.C. 57a) regarding unfair
11 or deceptive acts or practices.

12 “(b) EPA REPORT.—The Administrator, taking into
13 account any available results of such study, shall, within
14 3 years after the date of the enactment of the Safe Drink-
15 ing Water Act Amendments of 1994, submit a report to
16 Congress containing recommendations regarding the effec-
17 tiveness of such devices, and recommendations for legisla-
18 tion, to the extent necessary to assure the effectiveness
19 of such devices in reducing the level of drinking water con-
20 taminants.”.

21 **SEC. 27. BOTTLED DRINKING WATER STANDARDS.**

22 Section 410 of the Federal Food, Drug, and Cosmetic
23 Act (21 U.S.C. 349) is amended—

1 (1) by striking “Whenever” and inserting “(a)
2 Except as provided in subsection (b), whenever”;
3 and

4 (2) by adding at the end thereof the following
5 new subsection:

6 “(b) BOTTLED DRINKING WATER STANDARDS.—(1)
7 Not later than 180 days after the Administrator of the
8 Environmental Protection Agency promulgates a national
9 primary drinking water regulation for a contaminant
10 under section 1412 of the Public Health Service Act (42
11 U.S.C. 300g–1), the Secretary, after public notice and
12 comment, shall issue a regulation under this subsection
13 for that contaminant in bottled water or make a finding
14 that such a regulation is not necessary to protect the pub-
15 lic health because the contaminant is contained in water
16 in public water systems (as defined under section 1401(4)
17 of such Act (42 U.S.C. 300f(4)) but not in water used
18 for bottled drinking water. In the case of contaminants
19 for which national primary drinking water regulations
20 were promulgated under such section 1412 before the date
21 of enactment of the Safe Drinking Water Act Amend-
22 ments of 1994, the Secretary shall issue such regulation
23 within 1 year after such date of enactment.

24 “(2) A regulation issued by the Secretary as provided
25 in this subsection shall include any monitoring require-

1 ments that the Secretary determines appropriate for bot-
2 tled water.

3 “(3) A regulation issued by the Secretary as provided
4 in this subsection shall require the following:

5 “(A) In the case of contaminants for which a
6 maximum contaminant level is established in a na-
7 tional primary drinking water regulation under sec-
8 tion 1412 of the Public Health Service Act, the reg-
9 ulation under this subsection shall establish a maxi-
10 mum contaminant level for the contaminant in bot-
11 tled water which is at least as stringent as the maxi-
12 mum contaminant level provided in the national pri-
13 mary drinking water regulation.

14 “(B) In the case of contaminants for which a
15 treatment technique is established in a national pri-
16 mary drinking water regulation under section 1412
17 of the Public Health Service Act, the regulation
18 under this subsection shall require that bottled water
19 be subject to requirements no less protective of the
20 public health than those applicable to water provided
21 by public water systems using the treatment tech-
22 nique required by the national primary drinking
23 water regulation.

24 “(4)(A) If the Secretary fails to establish a regulation
25 under this subsection within the 180-day period described

1 in paragraph (1), the national primary drinking water reg-
2 ulation referred to in paragraph (1) shall be considered,
3 as of the date on which the Secretary is required to estab-
4 lish a regulation under paragraph (1), as the regulation
5 applicable under this subsection to bottled water.

6 “(B) Not later than 30 days after the end of the 180-
7 day period, or the 1-year period if applicable, described
8 in paragraph (1), the Secretary shall, with respect to a
9 national primary drinking water regulation that is consid-
10 ered applicable to bottled water as provided in subpara-
11 graph (A), publish a notice in the Federal Register that—

12 “(i) sets forth the requirements of the national
13 primary drinking water regulation, including mon-
14 itoring requirements, which shall be applicable to
15 bottled water, and

16 “(ii) provides that such requirements shall take
17 effect on the date on which the national primary
18 drinking water regulation for the contaminant takes
19 effect under section 1412 of the Public Health Serv-
20 ice Act (or in the case of national primary drinking
21 water regulations promulgated before the enactment
22 of the Safe Drinking Water Act Amendments of
23 1994, on the date 18 months after the enactment of
24 such Act).”.

1 **SEC. 28. ARSENIC.**

2 (a) STUDY.—Subject to availability of appropriations,
3 the Administrator of the Environmental Protection Agen-
4 cy shall enter into an agreement with the National Acad-
5 emy of Sciences to conduct a comprehensive study of the
6 human health effects of arsenic (which is subject to regu-
7 lation as a contaminant under the Safe Drinking Water
8 Act), taking into consideration the fact that arsenic occurs
9 naturally. Such study shall be completed within 2 years
10 of the date the agreement is entered into. A report shall
11 be transmitted to the Administrator of the Environmental
12 Protection Agency for purposes of subsection (b).

13 (b) REGULATION.—

14 (1) PROPOSED REGULATION.—Not later than
15 December 31, 1996, the Administrator of the Envi-
16 ronmental Protection Agency shall propose a na-
17 tional primary drinking water regulation for arsenic.
18 If the study under subsection (a) is begun before
19 May 31, 1996, the Administrator may not, except as
20 provided in paragraph (2), promulgate such regula-
21 tion until the National Academy of Sciences has is-
22 sued a report under such subsection. When the Na-
23 tional Academy of Sciences issues such report, the
24 Administrator shall reopen the comment period on
25 the proposed regulation for 60 days.

1 (2) REGULATION.—The Administrator shall
2 promulgate a national primary drinking water regu-
3 lation for arsenic not later than December 31, 1999,
4 except that the Administrator may extend such date
5 for 1 year if the Administrator has issued a new
6 proposed regulation for arsenic. The Administrator
7 may promulgate such regulation prior to such date
8 if the Administrator finds that arsenic in drinking
9 water is associated with an imminent and substan-
10 tial endangerment to the health of persons and pub-
11 lishes such determination in the Federal Register.

12 (3) STANDARD SETTING PROCESS.—In issuing
13 the national primary drinking water regulation for
14 arsenic, the Administrator may promulgate a na-
15 tional primary drinking water regulation pursuant to
16 section 1412(b)(5) (A) and (B) of the Safe Drinking
17 Water Act.

18 **SEC. 29. DEFINITIONS.**

19 (a) PIPED WATER.—Section 1401 is amended by
20 adding at the end the following:

21 “(15) The term ‘piped water’ means, in addi-
22 tion to water carried in pipes, water carried in cul-
23 verts, canals, or similar conveyances. Such term does
24 not include irrigation water provided to incidental
25 nonagricultural users if the Administrator or State

1 (in the case of a State exercising primary enforce-
2 ment responsibility for public water systems) deter-
3 mines that alternative drinking water to achieve the
4 equivalent level of health protection provided by the
5 applicable national primary drinking water regula-
6 tions is provided for drinking, cooking, and bathing,
7 or where the Administrator or State (in the case of
8 a State exercising primary enforcement responsibil-
9 ity for public water systems) determines that the
10 water provided for drinking, cooking, and bathing is
11 treated by the provider of such irrigation water, or
12 a pass-through entity providing water for drinking,
13 cooking, and bathing, to achieve the equivalent level
14 of health protection provided by the applicable na-
15 tional primary drinking water regulations. This
16 paragraph shall not be construed to affect the mean-
17 ing of the term ‘human consumption’ as used in any
18 other provision of this title. As used in this para-
19 graph, the term ‘conveyance’ does not include rivers,
20 streams, lakes, or ponds. Nothing in this paragraph
21 shall create new or additional requirements for pub-
22 lic water system.”.

23 (b) ALTERNATIVE QUALITY CONTROL AND TESTING
24 PROCEDURES.—Section 1401(1)(D) is amended by adding
25 the following at the end thereof: “At any time after pro-

1 mulgation of a regulation referred to in this paragraph,
2 the Administrator may add equally effective quality con-
3 trol and testing procedures by guidance published in the
4 Federal Register. Such procedures shall be treated as an
5 alternative for public water systems to the quality control
6 and testing procedures listed in the regulation.”.

7 **SEC. 30. REPORTS ON ENVIRONMENTAL PROTECTION**
8 **AGENCY ADMINISTERED PROGRAMS.**

9 For States and Indian Tribes in which the Adminis-
10 trator of the Environmental Protection Agency has re-
11 voked primary enforcement responsibility under part B of
12 title XIV of the Public Health Service Act (the Safe
13 Drinking Water Act) or is otherwise administering such
14 title, the Administrator shall provide every 2 years, a re-
15 port to Congress on the implementation by the Adminis-
16 trator of all applicable requirements of that title in such
17 States.

18 **SEC. 31. GENERAL AUTHORIZATION.**

19 (a) IN GENERAL.—Part A is amended by adding the
20 following new section after section 1401:

21 **“SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.**

22 “There are authorized to be appropriated such sums
23 as may be necessary to carry out the provisions of this
24 title for the first 8 fiscal years following the enactment
25 of the Safe Drinking Water Act Amendments of 1994.”.

1 (b) CONFORMING AMENDMENTS.—The heading for
2 part A is amended to read as follows:

3 “PART A—GENERAL PROVISIONS”.

4 **SEC. 32. CLERICAL AMENDMENT.**

5 Section 1421(b)(3)(B)(i) is amended by striking
6 “number or States” and inserting “number of States”.

Passed the House of Representatives September 27,
1994.

Attest:

Clerk.

103RD CONGRESS
2^D SESSION

H. R. 3392

AN ACT

To amend the Safe Drinking Water Act to assure
the safety of public water systems.