



COMPTROLLER GENERAL OF THE UNITED STATES
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The Honorable John D. Dingell
Chairman, Committee on Energy
and Commerce
House of Representatives

APRIL 23, 1981

The Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate



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Subject: [Adequacy of EPA Resources and Authority to Carry
Out Drinking Water Program Activities] (CED-81-58)

In our review of the Safe Drinking Water Program administered by the Environmental Protection Agency (EPA), we became aware of two matters which merit your attention: the adequacy of resources available for selected Safe Drinking Water Program activities and the need to clarify EPA's authority to carry out Safe Drinking Water Program activities.

BACKGROUND

In December 1974, the Congress passed the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to safeguard public drinking water supplies and to protect the public health. The act directed EPA to establish national drinking water regulations which set purity standards for drinking water and authorized EPA to grant States 1/ primary responsibility, or "primacy," for enforcing the regulations and standards. As of March 31, 1981, 49 States had established drinking water programs and were granted primacy by EPA. The remaining eight States--District of Columbia, Indiana, Oregon, Pennsylvania, South Dakota, Wyoming, American Samoa, and the Northern Mariana Islands--either declined to seek primacy or were not granted primacy by EPA. EPA has assumed responsibility for enforcing the drinking water regulations in these nonprimacy States.

To assist the States in developing and implementing public water system supervision programs, the act authorized EPA to award annual grants to supplement existing State funds. These grants, which are based on land area, population, and number of public water systems in each State, may cover up to 75

1/The term "State" as defined for the Safe Drinking Water Act includes the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands.

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percent of a State's total program costs. Currently, nonprimacy States do not receive grants and EPA has absorbed the costs of program operations in nonprimacy States.

ADEQUACY OF RESOURCES IN NONPRIMACY STATES

A comparison of resources available for program implementation and operation in primacy States versus nonprimacy States reveals a significant disparity. This resource disparity, in turn, raises questions about equity and whether people living in nonprimacy States are as well protected as those living in primacy States.

During fiscal year 1980, EPA granted the 49 primacy States about \$31 million to carry out drinking water programs. These grants ranged from \$108,000 to \$2.2 million and averaged about \$633,000. In addition, the 49 primacy States spent about \$24 million of their own funds on drinking water activities. Total Federal and State funds spent on drinking water activities in primacy States during fiscal year 1980 averaged about \$1.1 million. In contrast, in fiscal year 1980, EPA devoted about \$1.8 million to drinking water programs in the eight nonprimacy States; an average of \$225,000 per State.

Another indication that EPA may not have sufficient resources available for nonprimacy State program activities is the disparity between the resources EPA has spent and those resources nonprimacy States estimate are needed to effectively implement a drinking water program. Estimates by six of the eight nonprimacy States (data is not available on American Samoa and the Northern Mariana Islands) show that the States would need 217 staff-years to implement the type of drinking water program EPA regulations require. Pennsylvania estimates that it would require about \$2 million to implement a drinking water program, which is more than EPA devoted to all eight nonprimacy States during fiscal year 1980.

EPA's lack of adequate program resources for nonprimacy States was also discussed in our August 8, 1979, report to the Chairman, Subcommittee on Health and the Environment, House Committee on Interstate and Foreign Commerce. The report concluded that in nonprimacy States, the coverage by EPA may be severely limited as a result of resource constraints and may not meet the same standards that EPA requires for primacy States.

CLARIFICATION OF AUTHORITY

Does the act authorize EPA to undertake the day-to-day operations of a drinking water program in nonprimacy States? The answer to this question is important in determining whether EPA has sufficient resources available for nonprimacy States.

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EPA, citing its mandate under the act to establish and enforce the drinking water standards, believes that the act authorizes and requires it to establish and operate a day-to-day drinking water program in nonprimacy States. EPA contends that if it did not implement a drinking water program in nonprimacy States, no agency would be collecting and reviewing monitoring and compliance data to determine whether the drinking water regulations are being violated.

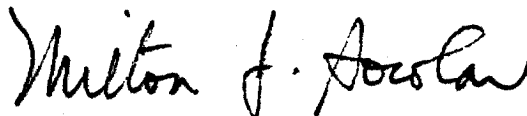
Based on our review of the act and its legislative history, we tend to believe that the act does not clearly authorize EPA to carry out the day-to-day operations of a drinking water program in States unwilling or unable to assume primacy. Rather, we believe EPA's role under the act to be one of supervision, oversight, and encouragement of States to assume primacy. However, because of the numerous individual authorities conferred on EPA by the act, various statements in the act's legislative history, and deference to EPA's assertion that the act authorizes it to implement such a program, we cannot state definitively that EPA's assumption of day-to-day program operations would be unwarranted or legally objectionable.

Because the act is unclear on EPA's authority in nonprimacy States, and to avoid potential disputes, we believe the House Committee on Energy and Commerce and the Senate Committee on Environment and Public Works should consider proposing amendments to the act which would clarify EPA's authority to undertake the day-to-day operations of a drinking water program in nonprimacy States. Furthermore, should it be decided that EPA is authorized to undertake such a program, additional resources may be required to enable EPA to provide the same program coverage as it requires of the primacy States.

We would be pleased to discuss these matters further with you should you desire.

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Copies of this report are being sent to other appropriate congressional committees; the Director, Office of Management and Budget; and the Administrator, Environmental Protection Agency.



Acting Comptroller General
of the United States