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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT  
OF THE

HOUSE COMMITTEE ON ENERGY AND COMMERCE  
ON

EPA AND STATE PROGRESS IN ENFORCING THE  
NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS

Mr. Chairman and members of the Subcommittee:

We are pleased to be here today to discuss our March 3, 1982, report entitled "States' Compliance Lacking in Meeting Safe Drinking Water Regulations" (CED 82-43). The report discusses how well the Environmental Protection Agency (EPA) and the States have implemented certain provisions of the Safe Drinking Water Act.

THE SAFE DRINKING WATER ACT

In December 1974, the Congress passed the Safe Drinking Water Act to insure that public water supply systems throughout the Nation meet minimum national standards for the protection of public health. The act directed the Administrator, EPA, to establish primary drinking water regulations and set national health standards for drinking water. The act also recognized that the States and territories have primary responsibility, commonly referred to as primacy, for enforcing the regulations and supervising public water systems in the country. A public water



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system is one which has at least 15 service connections or regularly serves a minimum of 25 people at least 60 days a year.

In December 1975, EPA issued the National Interim Primary Drinking Water Regulations, setting drinking water quality standards for coliform bacteria, turbidity (cloudiness), and inorganic and organic chemicals. The regulations were amended in July 1976 to establish a standard for certain man-made and natural radioactive materials. The regulations also prescribe how often drinking water supplies must be tested for each contaminant and steps water owners or operators must take to notify EPA or the primacy State and water users when a standard is exceeded or required testing is not performed.

Perhaps the best way for me to proceed Mr. Chairman is to address the two key questions we sought to answer in our review.

--Was the drinking water supplied to the public tested as required and did the water supplied meet the drinking water quality standards?

--Was the public properly notified when these standards were exceeded or the required testing was not performed?

We performed our work in three EPA regions and seven states--Colorado, Oklahoma, Pennsylvania, South Dakota, Texas, Virginia, and West Virginia.

COMPLIANCE WITH FEDERAL  
TESTING REQUIREMENTS

EPA's National Interim Primary Drinking Water Regulations require that the water supplies of public systems be tested periodically to guard against contamination. Our work indicated, however, that compliance with the regulations appeared to be the exception rather than the rule. EPA's statistics for fiscal year 1980, the last year available during our work, showed over 146,000 violations were recorded against 28,000 of the Nation's 65,000 community water systems. EPA regional and State office files for 140 community water systems we randomly sampled in the 7 states showed 701 violations by 93 of the systems; 47 systems complied with the drinking water standards. Almost all of the violations resulted from required tests not being made rather than the water not meeting the water quality standards. For example, system operators for 90 of the 93 systems in our sample did not carry out the required testing. The failures ranged from not taking a single monthly bacteria sample to not testing an entire system for any contaminant during a 12-month period. Although the failure to properly test these water systems did not, to our knowledge, result in either a waterborne disease outbreak or serious illness, the absence of such tests has negated the congressional intent that water provided to the general public be tested to insure it is safe to drink.

A variety of reasons existed as to why water systems were not complying with the testing requirements. Most of the violations were incurred by small systems which often lacked a full-time and

properly trained operator. A small water system serving 200 customers in western Pennsylvania demonstrates this point. During fiscal year 1980, the system operator did not test the water for coliform bacteria in 10 of the 12 months the tests were required. In 1 of the 2 months in which tests were made, the water contained levels of coliform bacteria in excess of the standard. The water association president told us that the water system's operator was a full-time truck driver and only worked on the system part time and because he was away much of the time, the necessary tests were often not taken.

Another reason for systems not complying with the testing requirements was operator apathy. The operator of a small system in Oklahoma told us that he did not have the time to take the required samples and took them only when he got around to it. The operator managed a service station and said that he was generally too busy to devote much time to the water system. He served on the water board only to help the town.

Still another factor contributing to the high rate of non-compliance was the States' failure to perform the tests they agreed to do. For example, the five primacy States in our review--Colorado, Oklahoma, Texas, Virginia, and West Virginia--were responsible for collecting radioactive material and/or inorganic and organic chemical samples for community water systems in the States. However, two of the five States--Colorado and West Virginia--did not collect the required samples for 35 of

the 40 systems included in our review. State officials gave several reasons for not doing the required tests but the principal ones cited were the lack of State funds and personnel.

Enforcement actions by the three EPA regional offices and the seven States to bring water systems into compliance ranged from none to minimal, followed no particular pattern, and were not as timely as they could or should have been. For example, operators for 51 water systems in West Virginia did not perform required testing for coliform bacteria and/or turbidity during fiscal year 1980. We randomly selected 10 of the 51 systems to determine what enforcement actions the State took to bring these persistent violators into compliance. While all 10 systems had been sent notices of violation for two consecutive quarters during fiscal year 1980, the State took no further action for 9 of the 10 systems. The State sent a threat of legal proceedings to one system owner/operator who agreed to take corrective measures. With this agreement, enforcement action ceased. The files did not show whether corrective action was subsequently taken and State officials could not recall whether any action had been taken.

EPA's first concerted effort to deal with noncompliance problems was in June 1980, when it issued its small system compliance strategy. Beginning in fiscal year 1981, each primacy State was required to establish enforcement criteria that would guide the State's use of its enforcement resources. EPA and the State would negotiate the types of violations requiring priority

enforcement. According to the strategy, the State would be responsible for consistently applying its enforcement resources to the identified priority violators.

The program was not fully implemented at the time of our review and therefore we were unable to evaluate its effectiveness. However, the fiscal year 1981 EPA-approved State program plans for the five primacy States in our review disclosed several inconsistencies. For example, West Virginia's plan specified that enforcement priority would be given to systems violating the water quality standards, with surface systems receiving top priority. In contrast, Oklahoma's plan merely explained the State's enforcement procedures and those factors that would be considered in initiating enforcement actions. We concluded that while the strategy was a step in the right direction EPA needed to further define those specific criteria the States must consider in ranking noncomplying water systems for enforcement action. We recommended that EPA develop and implement specific guidelines the States can use in developing their respective enforcement strategy. We suggested that these guidelines identify the various types of enforcement actions available to the States, the order in which each action should be taken, and clearly define the terms "serious violators" and "less serious violators."

EPA agreed with our recommendation and told us in June 1982 that it planned to issue a compliance strategy. But almost one

year later, the strategy has not been issued. EPA's Office of Drinking Water informed us in June 1983 that the draft strategy was being reviewed by the EPA regional offices.

COMPLIANCE WITH THE  
PUBLIC NOTIFICATION REQUIREMENT

The Safe Drinking Water Act requires water system officials to notify their users each time their system fails to meet one of the drinking water quality standards or to test its supplies. EPA statistics showed, however, that of the 146,000 drinking water violations nationwide during fiscal year 1980, public notification occurred for only 16,000, or about only 11 percent of the violations. Of the 701 individual violations we identified in our sample of 140 community systems the public was notified of only 63 violations--less than 9 percent.

When public notification did occur the effectiveness of alerting water systems users of a potential health hazard--not an emergency--was questionable because of the time lag between the occurrence of the potential health hazard and notification to the users. The following example demonstrates this point.

In July 1980, a community water system in Pennsylvania which served 850 customers, violated the coliform bacteria standard. EPA's Philadelphia regional office identified the violation on August 19, 1980, and notified the system of the violation and the need for public notification on September 11, 1980. The system in turn notified its users of the violation by letter on

September 15, 1980--2 months after the violation occurred.

Although we are unaware of any sickness or illness resulting from this incident, the point remains that public notification was not made in sufficient time to adequately warn the users of a potential health threat.

In December 1981, EPA published an issue paper requesting public comment on the act's public notification requirements and several other aspects of the drinking water program. EPA anticipated that the input it received would help it formulate proposed amendments to the act or, as a minimum, to the Federal drinking water regulations on the public notification system. EPA held public hearings on the issue paper in February 1982, and a summary of the comments along with recommendations were to be forwarded to the National Drinking Water Advisory Council in March 1982. Following the Council's review, the recommendations were to be forwarded to the EPA Administrator for action.

Subsequent to our report, the National Drinking Water Advisory Council, in March 1982, recommended to the EPA Administrator that the Safe Drinking Water Act be amended to allow EPA to distinguish in its regulations public notification requirements for minor and intermittent violation from those required for health-related and persistent violation. The Council also recommended allowing greater flexibility in the mode used to notify the public. To date, EPA has not proposed such amendments.



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Mr. Chairman, our report was issued in March 1982 and was based on fiscal year 1980 EPA and State statistics. To determine if public water system compliance with national drinking water regulations is improving, we obtained national drinking water violation statistics from EPA for fiscal years 1981 and 1982. Although EPA did not compile statistics on total drinking water violations as in fiscal year 1980, information provided by EPA does indicate some improvement. For example, EPA reported that the number of water systems in full compliance with both the water quality standards and the testing requirements for coliform bacteria increased from about 64 percent of all community systems in fiscal year 1980 to 70 percent in fiscal year 1981. During the same period, EPA reported that the number of systems in violation of the bacteria standard or testing requirement for 4 or more months decreased from about 14 percent in fiscal year 1980 to 10 percent in fiscal year 1981.

EPA information also shows that public notification is increasing in certain cases. In March 1983, EPA reported that public notification for coliform bacteria water quality violations increased from 41 percent of the violations in fiscal 1980 to about 50 percent in fiscal year 1981. Public notification for turbidity water quality violations also increased from 37 percent of the violations in fiscal year 1980 to 50 percent of the violations in fiscal year 1981.

Mr. Chairman, this completes my prepared statement. We shall be glad to answer your questions.