

(c) The cause of the contamination may be due to any situation, not necessarily flood related. It encompasses all situations involving a contaminated source of drinking water, whether caused by flooding or otherwise.

(d) To be eligible, a locality must be confronted with a source of water that is contaminated. The loss of clean drinking water must not be solely the result of a failure in the distribution system. For example, the emergency could be due to a failure of a reservoir purification system, and the locality might thus be faced with a contaminated source. Furnishing of emergency supplies of clean drinking water may not be undertaken in these cases since the distribution system is not considered to be a source. A loss of supply is not in itself a justification for furnishing supplies of water by the Corps of Engineers under this authority.

(e) Employment of the authority under the amendment requires a finding by the Chief of Engineers, or his delegate, that there is, in fact, a contaminated source of drinking water.

(f) The contamination must cause or be likely to cause a substantial threat to the public health and welfare. An identifiable and defined threat of impairment to the public health and welfare is considered necessary. There is no requirement, however, that actual sickness exist from contaminated water to invoke the authority. But a clear threat must be established. Lack of palatability, in itself, may not constitute a serious health threat (see §214.9(d)).

(g) Inhabitants of the locality, rather than commercial enterprises, are identified as the group threatened. A business firm faced with contamination of water used in its process is not eligible. The drinking water used by the people in the area must be affected.

#### §214.7 Delegation of authority.

The authority to approve measures for furnishing emergency supplies of clean drinking water pursuant to the section 82(2), Pub. L. 93-251 amendment of Pub. L. 84-99, is delegated to division engineers, up to a \$50,000 expenditure for the incident. Additional obligational authority of Code 400 funds will be obtained from DAEN-

CWO-E prior to authorizing the proposed added work.

#### §214.8 Exclusions.

The authority does not require correcting the contamination, or repair of water systems so that clean drinking water supplies become available again. Reestablishing community water supplies remains the responsibility of local government and other Federal programs. These methods may be employed under the authority, if they are the most feasible ways to provide emergency supplies of clean drinking water, but there is no mandate to do so. To the extent state or local governments can provide water with their own resources, the locality will be excluded from the provision of emergency supplies under Pub. L. 84-99. In general, the following situations are not considered to be appropriate for Corps action under this authority:

(a) Contamination which causes a loss of palatability, but poses no material threat to public health and welfare.

(b) Contamination, such as by bacteria, which can be reduced to a safe level by the users boiling the water.

(c) Confrontation with normal levels of impurities or contaminants in a drinking water source that does not pose substantial threat to the public health.

(d) Contamination by natural intrusions over a period of time, which are known to be occurring and which may accumulate in sufficient concentrations to pose a future health threat, but which have not yet reached the level of a present hazard.

(e) Loss or diminishing of a water source, due to such things as an earthquake or drought.

(f) Contamination of a drinking water source as a regular occurrence due to recurring events such as drought or flooding, when no corrective community action has yet been initiated.

(g) Contamination which, while posing a substantial threat to health and welfare, can be corrected by local authorities, other Federal authorities, or other appropriate means before emergency supplies are deemed necessary.