Calendar No. 342

95TH CONGRESS
1st Session

SENATE

REPORT
No. 95-370

CLEAN WATER ACT OF 1977

REPORT

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

TOGETHER WITH

ADDITIONAL VIEWS

TO ACCOMPANY

S. 1952

JULY 28—Legislative Day JULY 19, 1977—Ordered to be printed

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TABLE OF CONTENTS

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CLEAN WATER ACT OF 1977

JULY 28—legislative day—July 19, 1977.—Ordered to be printed

Mr. MUSKIE, from the Committee on Environment and Public Works, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1952]

The Committee on Environment and Public Works, reports an original bill (S. 1952) to amend the Federal Water Pollution Control Act Amendments of 1972 and recommends that the bill do pass.

GENERAL STATEMENT

Five years ago the Congress completed a comprehensive revision of national water quality policy. The 1972 Amendments to the Federal Water Pollution Control Act were initiated by the Congress and enacted over the President's veto. Their implementation has been uneven, often contrary to congressional intent, and, frequently more the result of judicial order than administrative initiative.

The Congress knew when it wrote the act in 1972, that its far-reaching scope and long-term goals would require periodic review. In anticipation of that need, the Congress authorized the appointment of a National Commission on Water Quality to study the implications of achieving or not achieving the 1983 requirements imposed by that act. The Commission study, which cost $17 million, provides valuable insight into the environmental and economic implications of the regulatory requirements which will be applicable at the beginning of the next decade.

Little contained in the study of the Commission could be construed as justifying major change in the direction established in 1972.

The Commission found the costs of achieving the 1983 regulatory requirements to be small and the benefits as substantial:

—Additional price increases due to Best Available Technology are smaller than due to Best Practicable Treatment. Cumulative BAT (1983) price increases, taking account of all economic effects are predicted to average only 1.1 percent in 1985.

—Generally the number of plant closures directly attributable to the regulatory requirements will be small. In many cases, they will be old, small, single-plant firms that could not remain economically viable over the next decade regardless of water pollution requirements.

—Benefits expressed only in economic terms will reach a level of at least $33.3 billion and as much as $88.1 billion by 1985.

The Commission identified significant gains for the environment from the investment in achieving the 1983 regulatory requirements. And, the Commission pointed out that failure to proceed on the course directed in 1972 could eliminate many of the important water quality gains which will result from achievement of the 1977 requirements.

The hearings the committee conducted this year throughout the country and in Washington confirmed much of what the Commission study reported. Little real need for change in the basic structure of the 1972 act was justified on the record. This is not to say that the act should not be changed. It is not to say that there should be no mid-course correction. It is to say that the overall thrust and objectives of the program should not be abandoned, and that the correction required is modest at best.

Any discussion of national water pollution policy necessarily involves three distinct areas: the municipal program, the industrial program, and other regulatory programs. With respect to the first, the Commission, the administration, and most testimony before the committee support a long-term commitment of Federal dollars to the construction of publicly owned treatment facilities needed to eliminate the backlog of needed waste treatment works in the nation's communities. It is anticipated that the cost of eliminating that backlog is greater than $60 billion, of which at least $45 billion in Federal funds will be required under current grant policy.

Municipal

In 1972, the Congress recognized that growth of the major urban areas in the United States and the continued degradation of the rivers, streams, and oceans demanded adequate treatment of municipal pollution. The Congress authorized, through contract authority, $18 billion which, when matched, would provide $24 billion to help meet the pressing need of cleaning up the pollution from existing public sources. The purpose was to provide funding to achieve the objectives of an earlier statute and an earlier program.

In order to achieve this objective, a regulatory program was established codifying EPA's requirement for secondary treatment of municipal wastes. A deadline of 1977 was established for achieving secondary treatment. Cleaning up the pressing backlog was given the highest priority.

But another priority was evident. Congress recognized that most sewage is fresh water and that many valuable nutrients are lost when fresh water contaminated with human sewage is discharged into the oceans and rivers. The same nutrients that cause lakes to eutrophy could be recycled and reclaimed. Thus the law required programs which emphasized reclaiming and recycling sewage, conserving water, reusing valuable nutrients, and reducing flows.

Unfortunately, these three primary directions—providing adequate funding, addressing the backlog of unmet needs, and moving toward reclaiming and recycling waste water—have been inadequately addressed and often ignored.

Half of the $18 billion of Federal dollars was impounded early in the program. Collector sewers, interceptor sewers, and treatment plants were approved even though their primary purpose was to meet new growth needs. Secondary treatment was defined without recognition of reclaiming and recycling alternatives.

The result is a municipal program which lacks uniformity and is in serious disarray. Many of the Nation's large cities such as Philadelphia, New York, St. Louis, and San Francisco, still discharge raw or inadequately treated sewage into rivers, lakes, bays, and oceans. At the same time, over-sized interceptors and new collectors are constructed in suburban areas in anticipation of development, and treatment plants are sized to accommodate that growth.

Small communities are overwhelmed by complex requirements, the result of which is construction of conventional systems which they do not understand how to operate and cannot afford to run. Alternatives exist but are not encouraged by the institutions and personnel involved. Thus, the committee found only one operating major land irrigation system in the United States. It approaches self-sufficiency through the sale of a corn crop. This system achieves a level of treatment which exceeds drinking water quality.

With this background accumulated in hearings in small and large cities throughout the country, the committee addressed the municipal treatment program. The committee's objectives were to replenish funding; provide reasonable relief from specific regulatory requirements; reorient the direction of the program toward use of alternative technologies as required in the 1972 act; re-establish that the primary focus of the program is the backlog of needed facilities; reduce the costs to small communities; and reaffirm the requirement that the program be operated and maintained on the utility-like basis.

The committee considered a 10-year $4.5 billion annual authorization to provide for these needs, but decided that the responsibility of the Congress in exercising budgetary control taken together with the need to re-examine, on a periodic basis, the Nation's priorities, suggested only a 5-year authorization at that level. By its action, the committee does not suggest that the 10-year program will not be forthcoming. The Senate Committee on Environment and Public Works will continue active oversight responsibility for this program to determine whether or not the public investments are sound, and whether or not the kinds of projects assisted by the act are, indeed, part of the country's waste treatment backlog or are intended for other purposes.

The committee underscores, by its actions, the intention of the 1972 act: the purpose of these funds is not to finance the future growth needs of the United States. Rather, the purpose is to eliminate backlog with limited provisions for growth set forth specifically in the statute to recognize the cost-effectiveness factors and to achieve a balance between the pressures for economic development and the need for environmental improvement.

For example, in order to stress this point, the committee considered eliminating entirely the eligibility for Federal financial assistance of lateral collector sewers. The committee decided that many small communities with serious ground and surface water quality problems caused by inadequate or overcrowded septic systems needed some form of financial assistance. At the same time, the committee intends that funds for these systems not be available for any future capacity. And the committee expects the States and the Administrator to fund alternative waste treatment systems which do not rely on collection and central treatment.

There is no defense for the practice of dumping all of the waste that this country generates into its rivers, lakes, and streams. The 1972 act stipulated that the Nation's fresh and marine waters would not be an element of the waste treatment process. That continues to be national policy. For communities and industries, the discharge of waste directly into the Nation's waters and oceans is permitted only where they will not interefer with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water: that is only where ecological balance can be assured. Thus, alternative technologies for dealing with waste, particularly land treatment options which will take advantage of the valuable nutrients in the waste stream, and other waste recycling options should become the highest priority for funding under this act wherever these are feasible or available.

The committee was disturbed by the fact that there seemed to be little relationship between the enforceable requirements of the act and the distribution of public funds for this program. Again, to underscore that the purpose of the program is to reduce the backlog of waste treatment facilities needs and not to finance the requirements of future growth, the law specifically requires that State priority lists reflect the enforceable requirements of the act—the deadlines for municipalities and for those industries which will discharge through those municipalities.

The Administrator may not approve a grant award for a facility designed to meet new growth. He may only approve a grant for that portion of any facility which meets the specific criteria of this act.

The Administrator may not approve a grant for a project primarily designed to deliver more waste to a receiving water No collection system for an existing community can be approved unless there will be available, when that collection system is completed, a completed secondary or high level treatment facility to treat the waste prior to its discharge into a receiving water.

The committee approved a case-by-case extension for municipalities which were unable to meet the July 1, 1977, requirements, in part as a

result of recognition of the impact of impounded funds. These extensions are available only to municipalities which would require substantial construction and for which Federal funds were not available, if they agreed to establish and maintain in interim compliance schedule.

Some communities located along the Nation's oceans have argued that there is no need to require secondary treatment for municipalities which discharge into ocean waters. The committee determined, after much analysis, that there should be a mechanism by which communities making this argument can test their case in the administrative process. No such contention was made for fresh water discharges. There seems to be general acceptance of the need to achieve a high degree of municipal waste treatment for discharges into the Nation's rivers, lakes, and streams. But with respect to marine discharges, the committee has provided a limited exception. The Administrator can, on a case-by-case basis, exempt publicly owned waste treatment plants from the requirements of secondary treatment for marine discharges where a specific showing is made.

Public systems which discharge into marine waters are also provided an opportunity to seek relief under this act. Where applicable water quality standards exist, the municipal source can apply for a waiver for any pollutant in its discharge if a showing is made that the national water quality standard for that pollutant will be maintained; if indirect sources which discharge into that system meet all applicable pretreatment requirements; if no other source will be required to meet additional requirements because of a modification of the secondary treatment requirement; and if the volume of discharge of the pollutant will not increase beyond that specified in the modified permit for the period during which the waiver is granted.

The committee bill emphasizes the need to use alternative technologies that have been developed in place of conventional secondary treatment plant, and encourages the development of new and innovative systems. To accomplish this, the bill requires republication of cost-effective guidelines to reflect the long-term benefits of reclaiming and recycling; creates a special set-aside for rural and lightly populated areas to be used for alternative technologies; and authorizes 100-percent grants for the development of innovative technologies. The bill also includes a provision for extension of deadlines for industries which use innovative technologies to meet the 1983 requirements.

The committee intends that all of those involved in implementing the program—the Environmental Protection Agency, States, communities, and consulting engineers—redirect the program away from the conventional collection and secondary treatment approach and toward the use of alternative technologies, especially those which rely on natural systems, such as land or lagoons or marshes, in order to make use of waste waters.

More than any other issue concerning the construction grant program the committee hearings focused on the need to encourage alternative and innovative systems. The problems of small communities coping with expensive capital-intensive waste treatment systems and the wastefulness of discharging valuable nutrient resources to the Nation's waters were stressed throughout the country. The need for new industrial processes which produce no waste was emphasized.

The committee bill, in every possible way, attempts to re-enforce the

specific statement of the 1972 act with respect to innovation, use of alternatives, and the adoption of policies which would lead to the confined and contained disposal of waste, utilization of the values of waste, and the elimination of the discharge of pollutants to the Nation's waters.

The committee bill recognizes that sludge, which is a burden to many communities, can be usefully applied as a soil conditioner, as a nutrient, and as a fertilizer. But the bill also recognizes that often sludge is so contaminated by the chemicals and metals which find their way into municipal waste treatment systems that it is useless. The committee adopted amendments to stop the waste of this important resource. The committee expects the Administrator to heed that emphasis of this legislation.

The committee discussed the issue of assuring proper operation and maintenance of municipal treatment systems with particular reference to the user charge question. The bill reaffirms the requirement of the 1972 act that operation and maintenance expenses be distributed in proportion to costs of operation and maintenance. The committee bill continues the policy that there be established a clearly identified revenue base for the operation and maintenance of municipal treatment facilities.

The committee considered testimony regarding the difficulties for some existing residential areas which do not have user charge systems to determine the exact usage of each recipient of the waste treatment service. To clarify any doubts, the committee bill includes an amendment which provides that meters are not required for existing users and that a flat rate or an ad valorem tax could be imposed so long as the flat rate or tax is proportional to use.

The committee reviewed the industrial cost recovery question and adopted changes which, while reaffirming the basic intent of the act, provide that industrial users should repay that portion of capital cost of the system attributable to their use. The purpose of industrial cost recovery is to avoid inequity through subsidy which creates a competitive advantage for an industrial point source discharging through municipal plants over those sources which must construct separate treatment works and pay the entire cost.

The limited changes would provide relief for industries which have conserved subsequent to joining a municipal system, allow industrial cost recovery payments to be used for program implementation, and exempt certain small industries whose discharges are nontoxic.

In each instance, the committee sought to keep in mind its findings and its basic objective: that the funds for the program must be replenished and must be provided over a sufficient period of time to allow communities to know what they can expect in order to meet what is expected of them; that the primary thrust of the program must be directed toward the backlog of untreated wastes; that the program must be redirected from its current emphasis on capital-intensive conventional treatment systems toward those alternative systems which reclaim and recycle waste water: that operation and maintenance must be on a utility basis; and that the States, the municipalities and the Federal Government must continue to operate this program in a shared relationship, with shared responsibilities.

Industrial

With respect to the industrial program, the committee recognizes and applauds the significant success that most of the Nation's major industries have attained. For those who have begun, have made the investment in waste treatment facilities, have complied with the 1977 requirements, there will be significant, economic as well as environmental benefit. There will be environmental benefit to receiving waters, economic benefit to those companies which bought pollution control when pollution control was considerably less expensive than it will be as a result of inflation and competitive improvement as a result of the delayed compliance fee required by this act. Ninety percent of the Nation's major industrial dischargers will meet the 1977 requirements of the 1972 act. A good portion of those who won't, will fail for what appear to be legitimate reasons. And about half of those who fail, according to the Environmental Protection Agency, will not have complied because of lack of diligence, lack of good faith, or lack of interest in the success of this program.

This legislation attempts to permit the Administrator to make a distinction between those who will fail to comply with the law through no fault of their own, and those who fail because they did not make an adequate effort. But the bill goes beyond that. For industry, it provides flexibility with respect to both the 1983 best available technology requirements and for those industries which, in good faith, chose to use municipal waste treatment facilities to treat their waste.

In the latter case, the time extension that has been granted for municipal compliance with this law is available. In the former case, there is a provision which authorizes a limited waiver to the Administrator where a showing can be made that there is no relationship between specific 1983 effluent limits and the legitimate objectives of the act.

For those industrial dischargers not in compliance, the bill provides the Administrator with yet another tool by, in effect, sanctioning what has been a policy of dubious legality with respect to delays in compliance. Two new enforcement tools are provided. First, these amendments provide the Administrator with authority to issue enforcement orders which specify a reasonable time for compliance with a final deadline. Current law limits the Administrator to issuing orders of 30 days duration.

Second, these amendments allow the Administrator, at his initiative, to grant a simple extension of 18 months to a source whose facilities are under construction but could not have been completed by July 1, 1977. This is simply a codification of the enforcement compliance schedule letter process which the Administrator has used for sources which, in good faith, have tried to comply with the law.

The committee expects the Administrator to expedite these determinations. Whenever he determines that there is substantial likelihood that a petition for a waiver will not prevail on the merits the committee expects the Administrator to reject the application so that the process of compliance can begin.

The committee is aware of the administrative and judicial implications of case-by-case extensions and case-by-case exemptions from a law as complex as the Clean Water Act. There was only one exception pro-

vided in the 1972 act and, in that case, there had been great abuse. More than 100 steam electric power plants applied for modification of thermal effluent limits. None has yet been placed on a compliance schedule to meet effluent limitations because of extensive delay as a result of this exception. And there is little question that after the administrative process there will be extensive litigation. Heat has thus become an unregulated pollutant, clearly not the intent of the Congress. The Congress intended that there be a very limited waiver for those major sources of thermal effluents which could establish beyond any question the lack of relationship between federally established effluent limitations and that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water. That limited exemption has been turned into a gaping loophole.

The cumbersome process which the Agency initiated resulted in part in a decision to avoid any application of 1977 regulatory requirements for steam electric powerplants. There is no basics for that decision in the law. The committee does not expect, however, that the Agency will now impose any additional 1977 requirement other than State water quality standards. The Agency also concluded that the 1972 act was preemptive with respect to the application of State water quality standards and effluent limits for heat. This is a determination for which there is no substance in law and which is wholly contrary to the committee's long-held view that the States are free to establish any more strict standards or effluent limitations, as specifically set forth in section 510 of the act.

Even without the State water quality standards/effluent limits question the delays in section 316(a) would be unfortunate and indefensible. Similar delays under the waivers in this act would be disastrous to this program. The committee expects the Administrator to establish an expeditious process for determining the validity of applications for exceptions, and to proceed swiftly to enforce effluent limitations applicable to pollutants for which there are no water quality standards or which would clearly interfere with attainment and maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water. Only in this way can these waivers be useful, both to the source which needs to know as early as possible what will be required and to the environment which will benefit from reduction of discharges of pollutants.

Other Regulatory Programs

In 1972, the Congress made a clear and precise distinction between point sources, which would be subject to direct Federal regulation, and nonpoint sources, control of which was specifically reserved to State and local governments through the section 208 process.

The committee hearings focused on the progress of the 208 program, methods developed for nonpoint source control, and the relationship of the regulatory program under sections 402 and 404 to the section

208 program, with a specific view as to the way water pollution programs related to agriculture.

Agriculture was demonstrated to be a major source of pollution. The current strategy in the act to divide agriculture into point and nonpoint sources is effective with regard to feedlots, but ineffective with regard to irrigation return flows. Yet the threat of direct regulation by permit has moved farmers and the farm-service community into a willingness to work with the section 208 areawide process, recognizing the advantage of locally initiated regulatory programs.

In most instances, the section 208 "best management practices" are not actual abatement programs, and interim strategies need to be developed. Section 208 offers the potential for abatement programs to control both irrigation return flows and nonpoint source agricultural runoff, and the committee considered several proposals to pursue this proposal.

For these reasons, the committee adopted several amendments which generally concern section 208 and specifically relate to agriculture. First, the committee renewed funding for section 208 planning and plan implementation. This is necessary to continue the work that has begun. Unfortunately, like other Public Law 92-500 programs, initial implementation of section 208 was slow. Few plans are completed, and accordingly the committee also extended completion deadlines.

Second, the committee exempted irrigated agriculture, defined under the act as a point source, from the 402 permit program and included it within the 208 program.

Third, the committee examined a variety of ways to strengthen the implementation of the 208 program, so that it would become a meaningful nonpoint source abatement mechanism. The committee provided an opportunity in its consideration of the section 404 issues for States to develop an approvable 208 regulatory program for specified activities. Approval through this process would remove those activities from direct Federal control.

Between requiring regulatory authority for nonpoint sources, or continuing the section 208 experiment, the committee chose the latter course, judging that these matters were appropriately left to the level of government closest to the sources of the problem.

But that should not be interpreted as a lack of concern of the committee. The committee clearly intends 208 to produce specific nonpoint source abatement programs and will review the program as more plans are completed.

The $150 million authorization for section 208 for fiscal year 1978, 1979, and 1980 will be used to support the continuing development of water quality management plans and programs that are needed to attain the national goals for 1983. The committee recognizes that the requirements of section 208 provide the primary means for the control of nonpoint sources of pollution, and expects EPA to direct the funds authorized under this section towards assisting in the development of effective nonpoint source control programs.

In addition, the planning and development of regulatory mechanisms can be used for a large number of problems categories—urban-industrial problems such as municipal facility planning, pretreatment,

sludge disposal, and urban runoff; and for efforts in the area of water conservation and reuse.

The States and EPA should carefully evaluate the success of initial work by designated areawide agencies. The committee expects that continuing funding of any 208 agency will be given to those agencies which have demonstrated the ability to carry out their plans, and have the capability to deal with future priorities and problems.

Proper and effective use of these 208 funds has the potential for identifying significant cost savings in municipal and industrial facility investment.

There has been considerable discussion of the provisions of section 404 of the act, much of which has been related to the suspicions and fears with respect to that section, and little of which has been related to substantive solutions to real problems while providing an adequate regulatory effort to assure some degree of wetlands protection. There is no question that the systematic destruction of the Nation's wetlands is causing serious, permanent ecological damage. The wetlands and bays, estuaries and deltas are the Nation's most biologically active areas. They represent a principal source of food supply. They are the spawning grounds for much of the fish and shellfish which populate the oceans, and they are passages for numerous upland game fish. They also provide nesting areas for a myriad of species of birds and wildlife.

The unregulated destruction of these areas is a matter which needs to be corrected and which implementation of section 404 has attempted to achieve. The upland farming, forestry and normal development activity carried out primarily by individuals and as a part of family business or family farming activity need not bear the burden of an effort directed primarily at regulating the kinds of activities which interfere with the overall ecological integrity of the Nation's waters. At the same time, these activities cannot be fully ignored. Without question, they should not and cannot be regulated by the Federal Government. Equally without question, there should be a degree of discipline over the extent to which these activities destroy wetlands or pollute navigable waters. The committee bill addresses the institutional method for reducing the impacts of this program.

Section 208, the 1972 act's laboratory for new institutional control mechanisms for vexing nonpoint source problems, is undoubtedly the logical element for dealing with this and other similar problems. It may not be adequate. It may be that the States will be reluctant to develop the control measures and management practices which protect upland wetlands and navigable waters, and it may be that some time in the future a Federal presence can be justified and afforded.

But for the moment, it is both necessary and appropriate to make a distinction as to the kinds of activities that are to be regulated by the Federal Government and the kinds of activities which are to be subject to some measure of local control. The distinction does not necessarily need to be limited to the waters into which the discharge occurs so much as the kind of discharge which occurs, whether or not it is point source or nonpoint, whether or not it is major or minor, whether or not it is a conventional activity or a major change in the use of an area.

The committee bill includes a provision which utilizes existing legislative mechanisms, and maintains the primary thrust of section 404 with respect to protection of wetlands from spoil and fill dis-

charges where wetlands protection is an important public need. At the same time, the bill tries to free from the threat of regulation those kinds of manmade activities which are sufficiently de minimus as to merit general attention at State and local level and little or no attention at the national level.

The bill intends to develop a better response from the states with respect to the development of better management practices for nonpoint sources and de minimus point sources. The proposal would permit the degree of exemption from the section 404 program to be determined by the States as opposed to the courts, as is currently the case when there is a dispute between the regulator and the potentially regulated. By the act of assuming the regulatory program under section 208, the State can define those covered by State best management practices, the effect of which, if approved by EPA, will be a specific, precisely defined exemption from section 404. And at the same time, the public will benefit from the hoped-for improvement in the manner in which polluting activities are carried out in order to reduce the discharge of effluents and improve the quality of water.

The provision solves most real problems with section 404: (a) by providing general delegation authority to the States; (b) by specifying exempt activities; and (c) by bringing the program under the general procedures of section 402.

Agency Resources

The committee has been concerned over the last several years about the effects of personnel constraints on the implementation of the programs within EPA's jurisdiction. The committee has always recommended funding and personnel levels higher than administration budget requests in an effort to assure that the programs are adequately implemented. Unfortunately, these levels have remained inadequate, though there have been modest increases within the last year.

The committee is especially concerned about the adequacy of the number of people managing the construction grant program. EPA still does not have the capability to manage this program properly, and the committee is concerned that inadequate attention to the number of projects that are approved in this program could lead to performance problems or poor investment of funds.

An informal and partial survey of two other agencies responsible for construction was conducted. These two programs were the Corps of Engineers, Civil Works Program, and the Federal Highway Administration, Construction and Maintenance Division. The following schedule breaks down construction activity for EPA and the two other agencies:

	EPA	COE	Federal Highway Administration
Total number of active projects	10,059	283	5,039
Total active projects (millions)	$17,500	$21,500	$10,876
Total obligations projected, fiscal year 1977 (millions)	$6,600	$1,687	$5,300
Total number of employees involved in construction	1,007	[1] 9,750	4,000
Active projects per position (number)	10	.1	1.3
Active project cost per position	$17.4	$2.2	$2.7
Dollars obligated per position (fiscal year 1977 dollars)	$6.6	$.2	$1.3
Total number of supergrades involved in construction	[2] 2	[2] 26	[2] 52

[1] Includes design and ADP support personnel.
[2] Some overlap with other programs.

The two EPA supergrades share their construction grants time with the Municipal Operations and Training Division and the Oil and Special Materials Control Division.

Other agencies get a fixed percentage of their appropriation for administration of their programs, whereas EPA supports construction grants through its general operating accounts.

National Commission on Water Quality

The committee extends its appreciation to the members and the staff of the National Commission on Water Quality. Established by section 315 of the 1972 Act, the Commission studied the social, economic and environmental implications of achieving the act's 1983 requirements. That assessment, forwarded to the Congress in factual findings as well as recommendations, was valuable to this committee in its deliberations this year.

A special thanks is owed to the Commission's Chairman, Nelson Rockefeller, who gave unsparingly of his time and energy to guide the Commission from its inception to its completion; and to the three key staff Members without whom the work could not have been completed: Lt. Gen. Frederick J. Clarke, the Commission's Executive Director; Joe G. Moore, the Commission's Program Director; and James N. Smith, the Commission's Deputy Director. Vice President Rockefeller's inestimable leadership, and the diligence and high caliber of professionalism of the staff, resulted in a study of benefit, not only to the Congress, but to all the citizens of the United States.

The staff report clearly identified the cost associated with achieving the 1983 requirements and the attendant benefits. It described the technologies available and calculated the environmental improvements from employment of those technologies.

The recommendations sought ways to control toxics at the source, provide flexibility in application of regulatory controls to other pollutants, and decentralize the grants program.

The committee reviewed the work of the Commission and heeded its advice in this bill.

The bill recognizes the need for immediate toxics control, and strengthens section 307(a) while maintaining the 1983 requirements for toxics; the bill authorizes flexibility to the Administrator in enforcing the 1977 requirements and applying the 1983 requirements; and the bill provides the resources necessary to decentralize the program.

In our hearings, the committee heard eloquent testimony from Dr. Edwin Gee, a Commission member, and in our mark-up, from General Clarke and Mr. Moore. In both instances, the committee benefited from their knowledge and insight.

Had the Commission not assembled the scattered facts and information on the progress of the clean water program's implementation, integrated those facts, synthesized them, and developed recommendations on them, this committee could not have so successfully completed its work in the brief time available.

Members of Congress who served as members of the Commission know how important the work was.

On the Senate side were Senators Randolph, Muskie, Bentsen, Baker and Buckley. On the House side, were Representatives Jones, Johnson, Wright, Harsha, and Cleveland. Upon retirement, Representative Blatnik was replaced by Representative Johnson and Representative Grover was replaced by Representative Cleveland. The public members along with Vice President Rockefeller and Dr. Gee were Mr. William Gianelli of California, Mr. Raymond Kudukis of Ohio, and Mr. Ladd Davies of Arkansas. Each member gave many hours of valuable time to this effort.

The work of the Commission will be a lasting contribution, and the Committee is indeed grateful for the efforts of all who participated.

Hearings

The Subcommittee on Environmental Pollution held 15 days of hearings (8 of which were in the field, 7 of which were in Washington, D.C.), comprising 63 hours of testimony, 159 scheduled witnesses, and over 75 additional unscheduled witnesses.

The full committee met in markup sessions seven times and, on July 22, 1977, voted to order the bill reported.

Disposition of Bills Pending Before the Committee

S. 121 —Oil pollution liability: A.
S. 162 —Dredge and fill permit program: A.
S. 182 —Tanker safety and marine pollution: A.
S. 230 —Secondary treatment waiver: A.
S. 381 —Dredge and fill permit program: A.
S. 493 —Oil and hazardous substances: A.
S. 597 —Dredge and fill permit program: A.
S. 687 —Oil pollution liability: A.
S. 867 —Dredge and fill permit program: A.
S. 885 —200-mile pollution control zone: A.
S. 898 —Oil pollution liability: A.
S. 1015—Detergents in Great Lakes: B.
S. 1057—Oil pollution liability: A.
S. 1187—Oil pollution liability: A.
S. 1635—Construction grant program: A.
S. 1694—Reallotment: A.

A—This general issue was considered by the committee, and language has been included in the committee bill to resolve this issue.

B—This issue was considered, and the committee determined not to include it in the bill.

DISCUSSION OF INTENT

AUTHORIZATIONS

SUMMARY

This section provides authorizations for EPA's non-research operating programs for fiscal years 1978, 1979, and 1980.

ESTUARINE STUDY

SUMMARY

This section amends section 104, Research, Investigations, Training, and Information, to permit the estuarine report to be submitted every 6 years instead of every 3 years.

DISCUSSION

The need for this legislative change lies in the paucity of new data available to justify the development of a report on the Nation's estuaries every 3 years. The resources to develop a comprehensive report on the Nation's estuaries are substantial and must be obtained from other important EPA programs, which also have legislative mandates of one kind or another. It seems that the best use of such limited resources would be to apply such resources to the development of an estuarine report on a 6-year cycle when sufficient new data would be expected to be available to develop a meaningful report with recommendations for investigative or corrective actions.

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

SUMMARY

This section amends section 104, Research, Investigations, Training, and Information, to establish a national clearinghouse for the collection and dissemination of information developed on alternative treatment technologies.

DISCUSSION

Numerous studies, research projects, and demonstrations have been conducted and are presently underway to develop and evaluate new, improved alternative wastewater treatment systems. Such projects involve State and Federal agencies, private foundations and institutions, universities, and private industry in all aspects of alternative system technology including treatment system development and reliability testing, evapotransportation, spray irrigation and other disposal techniques. Water-saving methods include the development of efficient wastewater recycling systems and nonwater use toilets.

One of the most serious impediments to the full utilization of alternative systems technology has been the unavailability of research data and other information for those interested in developing sanitation projects using such systems, and in advancing the present state of the art in this field. The result has been a limited exchange of ideas and the unnecessary duplication of research and demonstration projects.

The amendment, in establishing a national clearinghouse for alternative systems requires that new and existing information in this field be continuously coordinated, evaluated, edited and otherwise prepared in the most usable form to assist State and Federal agencies, municipalities and other interested parties in keeping abreast of the latest developments in this field.

Grants for Innovative Technology

SUMMARY

This section amends section 105 grants for Research and Development to provide 100-percent funding for research and development projects which demonstrate innovative technology, if such a project is on a State's priority list under section 303 of the act. Currently, grants for such demonstration projects are limited to 75 percent of the total cost. Under this new provision, the non-Federal costs of such projects may be provided from a State's allotment under the construction grant program. The total amount of such funds used for this purpose may not exceed one-half of 1 percent of a State's allotment.

DISCUSSION

Testimony presented to the committee suggested that one reason communities were unwilling to attempt to utilize innovative technologies for the treatment of municipal waste waters is the risk that the new technology will not work as acceptably as a more conventional treatment process. Both innovative and conventional solutions are eligible for 75 percent federal funding under current law. In an effort to eliminate this risk, and to encourage full scale treatment works which demonstrate new technology, this section provides 100 percent funding for demonstration plants. The funds applicable to the remaining 25 percent share are limited to one-half of 1 percent of a State's allotment.

Assistance for Research & Development Projects

SUMMARY

This section amends section 105 grants for Research and Development to authorize the Administrator to compensate a community for the costs of operating a research or demonstration facility, constructed by the Federal Government pursuant to section 105, which exceed the operating costs for a comparable community using a conventional treatment works.

DISCUSSION

The Environmental Protection Agency has constructed treatment works to demonstrate advanced or special application technology for the treatment of municipal wastes. This amendment authorized the EPA, when such a situation occurs, to compensate the community for that portion of the facility's operating and maintenance costs over and above what a community of a similar size and location would be required to pay for operating a conventional treatment works. The Administrator, in implementing this amendment has the latitude to require a community, pursuant to the availability of construction grant funds, to alter the facility's treatment process to reduce operating costs and therefore the EPA's obligations under this amendment.

The committee generally opposes the use of Federal funds for the operation and maintenance of treatment works.

This amendment is intended only to correct a specific problem by authorizing EPA to use section 105 funds for operation and maintenance, in those limited instances where the construction and operation of a specialized, advanced technology has unfairly burdened the sponsoring community with extraordinary operating and maintenance costs.

PRIORITY LIST REQUIREMENTS

SUMMARY

This section amends section 106, Grants for Pollution Control Programs, to require that State priority lists reflect the enforceable requirements of the act.

DISCUSSION

Section 5 amends subsection 106(f) to provide further guidance to the Administrator on requirements for approval of priority lists or determinations for priority under 106(f) or section 204(a)(3) or section 303(e) for grants for design or construction of publicly owned treatment works. Highest priority is to be given to treatment works necessary to comply with sections 301(b) or 201 (b), (d) and (g)(2)(A). Included are facilities providing for treatment, reclamation or recycling of wastewater and for beneficial use or disposal of residual sludges.

EPA's current municipal enforcement policy is directed toward communities which could have complied with the 1977 deadline but chose not to. Communities which cannot comply because funds were not available are issued enforcement compliance schedule letters specifying a time for compliance which is related to availability of funds.

The purpose of this amendment is to close the loop between funding and deadlines. States must assign highest priority for funding to those projects the purpose of which is to achieve secondary or better levels of treatment for current discharges of waste. No other project is entitled to funding until current publicly owned point sources are fully funded.

Training Grants

SUMMARY

This section amends section 109, Training Grants and Contracts, to increase the limit of a grant for a training facility from $250,000 to $500,000 to exempt any such grant from the requirements of section 204, and to increase the eligible uses of training grant funds.

DISCUSSION

The 1972 act restricts the use of 109(b) funds to the construction of physical facilities for the training of operators of municipal treatment works by a State. The committee recognizes the necessity of comprehensive, widely available training opportunities for those who operate the thousands of treatment works constructed with Federal funds. The committee believes that substantially improved State training programs can be developed with the increased flexibility in the use of funds provided in this amendment. The committee expects that construction grant funds would be expended by the States pursuant to this amendment to section 109(b) for such training costs as mobile training units, classroom rentals, specialized instructors, and instructional material.

Rural Village Study

SUMMARY

This section amends section 113, Alaska Village Demonstration Projects, to authorize a study for the development of a comprehensive program for adequate sanitation services in Alaska villages.

DISCUSSION

This section amends section 113 of the existing law. It authorizes the Administrator to coordinate with the Secretaries of Health, Education, and Welfare, Housing and Urban Development, Interior, and Agriculture, and any other appropriate agency or department as well as the State of Alaska and the appropriate native organizations so as to develop a program for the provision of adequate sanitation services in Alaska. Funds are authorized for 1978 and 1979. A report, as well as any legislative or administrative recommendations, will be filed with the Congress.

This section requires a comprehensive planning study which will result in a coordinated approach of assuring adequate sanitation services in Alaska. There are over 200 rural villages, most of which lack the basic necessities of safe drinking water and proper means of waste disposal. Currently, numerous Federal, State, and local agencies and organizations are involved in efforts to satisfy these basic needs. The U.S. Public Health Service administers a multimillion dollar construction program for water and sewer systems in native villages. EPA built central facilities in the Villages. EDA sponsors projects in the State. The State of Alaska and the native nonprofit regional corporations are active in the efforts to obtain satisfactory sanitation. In

essence, money is spent on the problem by a number of agencies, without any comprehensive planning and coordination.

The purpose of the amendment is to complement the State of Alaska's efforts to devise a plan to provide sanitation services.

Upon conclusion of the study, the Administrator will report to the Congress with the results of the study, as well as recommendations he deems necessary to assure adequate sanitation services in rural areas of the State. The Administrator will also provide any recommendations of administrative actions or legislation necessary to satisfy the purposes of the study.

The amendment authorized the sum of no more than $200,000 for 1978 and no more than $220,000 for 1979 to complete the study and consequent recommendations.

Reallotment

SUMMARY

This section amends section 205, Allotment, to extend the period of availability of sums made available during fiscal year 1976 to September 30, 1978.

DISCUSSION

This section amends section 205(b)(1) to provide that title II construction grant funds made available during fiscal year 1976 shall continue to be available for obligation until September 30, 1978.

The committee is concerned about the possibility that the reallotment date, along with the general tendency to speed the flow of money, has had the effect of inducing the construction of poor projects, especially projects constructed with the inadequate consideration of alternatives to conventional treatment. The committee expects the Administrator to manage the program to avoid this result.

This amendment is required for several reasons. The lump sum release of $9 billion in January 1975, has made it very difficult for many States to plan and prepare their sewage treatment projects for funding before the deadline for obligating these moneys is reached on September 30, 1977. In addition, difficulties in raising the local share for funding projects have slowed the commitment of some municipalities to water pollution projects. Some States, in order to utilize available Federal funds, may certify low priority projects rather than risk losing funds on more complex, high priority projects which cannot be prepared for funding in time to qualify for Federal assistance.

The committee considered an administration proposal to extend the date for reallotment of any funds beyond the requirements of current law, and decided not to adopt this proposal. While the committee has voted to extend for 1 year the date for the reallotment of current funds, it did so only because current funds were withheld until very late as a result of the litigation involving the impoundment of $9 billion of funds authorized for the 1972 act. Also, the committee recognized that certain States encountered severe difficulties in selling obligations to finance the local share of the project's costs.

The committee recognizes that there is no particular magic to the formulas which are the basis for distributing funds among States and

that the only real test of the appropriateness of any distribution formula is the extent to which States move ahead to obligate funds for eligible projects in a timely manner. If a State has inflated its needs or is not prepared to stimulate the construction of facilities to meet needs, then that State should forfeit its allocation in order that other States may move ahead. And, if it occurs that a number of States are confronted with loss of allocations as a result of insufficient projects which meet the criteria of the act, Congress can then reexamine the amounts of funding provided for this program and consider reallocation of those resources to other important areas of public need.

Construction Grant Program

SUMMARY

This section amends section 207, Authorization, to authorize $3.5 billion for the municipal construction grant program for fiscal year 1977, and $4.59 billion for each of the fiscal years 1978, 1979, 1980, 1981, and 1982. This section also provides for the allotment of these funds.

DISCUSSION

In response to the first objective, the committee bill provides funding to complete the fiscal year 1977. The committee authorized $3.5 billion, bringing the total fiscal year 1977 funds to $4.5 billion. Pursuant to the advice of States and cities, the committee authorized long-range funding based upon an estimate that a $45 billion Federal share would meet the backlog of sewage treatment needs. The committee authorized 5 years of funding, 1978, 1979, 1980, 1981, and 1982, and an annual program level of $4.59 billion.

The following chart gives a financial summary of the program:

CONSTRUCTION GRANTS FINANCIAL SUMMARY, CLEAN WATER ACT OF 1977

[In millions of dollars]

	Fiscal year—					
	1978	1979	1980	1981	1982	1983
Construction grants:						
Obligations:						
Current legislation	1,990	90	----------	----------	----------	----------
New legislation	4,000	5,400	5,000	4,500	4,500	2,600
Subtotal	5,990	5,490	5,000	4,500	4,500	2,600
Outlays:						
Current legislation	5,020	4,230	2,490	1,010	570	200
New legislation	170	1,400	3,200	5,000	5,500	5,000
Subtotal	5,190	5,630	5,690	6,010	6,070	5,200
C.G. operating costs (total):						
Regular program:						
Manpower	48	48	50	48	43	----------
Contracts	15	15	15	15	15	----------
IAG	4	4	4	4	4	----------
Subtotal	67	67	69	67	62	----------
A/E "party to" provision	218	243	246	263	273	----------
Total	285	310	315	330	335	----------

The committee has approved two allotment formulas for the distribution of funds authorized under this act. For fiscal year 1977 funds, the committee agreed to the formula used for the distribution of the $1 billion already made available in the fiscal year 1977 supplemental. That formula is the same as one passed by the committee earlier this year in S. 57, and represents 25 percent 1975 population, 25 percent total needs, and 50 percent needs, as represented in the 1974 Needs Survey.

The formula approved for fiscal years 1978–1982 represents a combination of two formulas, 100 percent 1975 population and 100 percent 1976 Needs (Categories I, II, III, IVB, V). The committee formula utilizes the higher of the two percentages each State would receive under the two formulas. Such a listing adds up to a total of 117.34 percent. This percentage total is then reduced to 100 percent and the resulting percentages are the basis for distribution of fiscal years 1978–82 funds.

There is an additional caveat that in either formula, no State shall receive less than one-half of 1 percent of the total allotment. Additional sums are authorized for this purpose, bringing the total authorization for each year to $4.59 billion.

The following table shows both the percentages and dollar figures for each State under the committee formula:

COMMITTEE COMPROMISE FORMULA PRORATED TO $4,500,000,000 WITH ½ OF 1 PERCENT FLOOR

	Percent of $4,500,000,000	½ of 1 percent floor	Dollars out of $4,500,000,000	Dollars for ½ of 1 percent floor
Alabama	0.014192		$63,864,000	
Alaska	.002992	0.005000	13,464,000	$22,500,000
Arizona	.008734		39,303,000	
Arkansas	.008309		37,390,500	
California	.083194		374,373,000	
Colorado	.009951		44,779,500	
Connecticut	.012154		54,693,000	
Delaware	.002835	.005000	12,757,500	22,500,000
District of Columbia	.002835	.005000	12,757,500	22,500,000
Florida	.032818		147,681,000	
Georgia	.019345		87,052,500	
Hawaii	.007223		32,503,500	
Idaho	.003961	.005000	17,824,500	22,500,000
Illinois	.057565		259,042,500	
Indiana	.030643		137,893,500	
Iowa	.011270		50,715,000	
Kansas	.008903		40,063,500	
Kentucky	.013336		60,012,000	
Louisiana	.014887		66,991,500	
Maine	.008970		40,365,000	
Maryland	.019942		89,739,000	
Massachusetts	.029148		131,166,000	
Michigan	.038471		173,119,500	
Minnesota	.016547		74,461,000	
Mississippi	.009212		41,454,000	
Missouri	.028128		126,576,000	
Montana	.002937	.005000	13,216,500	22,500,000
Nebraska	.006071		27,319,500	
Nevada	.002834	.005000	12,753,000	22,500,000
New Hampshire	.009507		42,781,500	
New Jersey	.032722		147,249,000	
New Mexico	.004504	.005000	20,268,000	22,500,000
New York	.101148		455,166,000	
North Carolina	.021406		96,327,000	
North Dakota	.002834	.005000	12,753,000	22,500,000
Ohio	.067814		305,163,000	
Oklahoma	.010650		47,925,000	
Oregon	.012785		57,532,500	
Pennsylvania	.046445		209,002,500	
Rhode Island	.005690		25,605,000	
South Carolina	.011066		49,797,000	

COMMITTEE COMPROMISE FORMULA PRORATED TO $4,500,000,000 WITH ⅓ OF 1 PERCENT FLOOR—Continued

	Percent of $4,500,000,000	⅓ of 1 percent floor	Dollars out of $4,500,000,000	Dollars for ⅓ of 1 percent floor
South Dakota	.002834	.005000	12,753,000	22,500,000
Tennessee	.016446		74,007,000	
Texas	.048055		216,247,500	
Utah	.004736	.005000	21,312,000	22,500,000
Vermont	.003528	.005000	15,876,000	22,500,000
Virginia	.019505		87,772,500	
Washington	.017013		76,558,500	
West Virginia	.018027		81,121,500	
Wisconsin	.018091		81,409,500	
Wyoming	.002834	.005000	12,753,000	22,500,000
American Samoa	.000582		2,619,000	
Guam	.000731		3,289,500	
Puerto Rico	.011973		53,878,500	
Pacific Trust Territories	.001325		5,962,500	
Virgin Islands	.000342		1,539,000	
Total	1.000000	1.020336	4,500,000,000	4,591,512,000

Areawide Planning

SUMMARY

This section amends section 208, Areawide Waste Treatment Management, to provide that each Statewide planning agency shall have 3 years for completion of their plan. This section also provides that each initial planning grant shall be 100 percent, and further grants shall be 75 percent.

DISCUSSION

The bill amends section 208 to assure that each statewide 208 planning agency has a full 3 years for preparing an initial plan.

The bill also contains a substantive amendment to section 208(f) of the Federal Water Pollution Control Act. This amendment provides that, for the first 2 years of operation of any agency designated to conduct an areawide waste treatment management planning process under section 208, the amount of the Federal grant shall be 100 percent of the costs. The purpose of this amendment is to provide new designations equity with those agencies which were designated before June 30, 1975. Under the terms of the existing law, new designations are only eligible for 75 percent grants for the first 2 years planning costs.

Individual Systems

SUMMARY

This section amends section 201, Purpose, to permit grants for construction of privately-owned treatment works where a public body applies for such grant on behalf of a number of such units and will assume that such treatment works are properly operated and maintained, and where such service is more cost-effective than collection and central treatment.

DISCUSSION

This amendment extends Federal assistance to communities in rural or semirural areas where centralized sewage collection and treatment

systems are not cost-effective because the population is of low density. These areas often have severe pollution problems but cannot afford the high cost of replacement, rehabilitation or improvement of their existing small waste-water treatment and disposal systems without a Federal grant.

This section amends section 201 of the act to authorize the Administrator to make grants to construct privately owned treatment works where the cost-effective solution to an existing pollution problem is a number of small treatment works serving one or more existing primary residences and associated existing small commercial establishments. Treatment works serving new residences or commercial establishments or second homes, vacation, or recreation residences are not eligible for this special authority.

When the committee refers to alternatives or unconventional treatment works for individual or cluster treatment works it means such systems as aeration treatment plants, compost toilets, oil flush toilets, septic tanks, waste-water recycling devices, pressure sewers and other devices, and appropriate apurtanences for wastewater treatment and disposal used in a systematic way to provide rural and other areas with sanitary services through a public body.

The section requires that a public body otherwise eligible for a grant under section 201(g) apply on behalf of a number of such units. This authority may be used only for treatment works which are part of a comprehensive plan for correcting ground or surface water quality problems. Individual units not part of such a community-wide program are not eligible. The municipality's application for a construction program for individual units under this subsection must be placed on the State priority list before being funded, including any special list for alternative systems.

The municipality must also enter into an enforceable agreement with the Administrator to assure that such treatment works are properly operated and maintained. All other requirements of section 204 of the act must also be met.

Reserve Capacity

SUMMARY

This section adds a new subsection (c) to section 202, Federal share, of the act to provide that the amount of reserve capacity for treatment works eligible for Federal assistance is to be limited to that future capacity required to serve the users of such treatment works expected to exist within the service area of the project 10 years from the time such treatment works is estimated to become operational (or 20 years in the case of interceptor sewers and associated appurtenances). The provision also amends section 204(a)(5) to conform to the new paragraph in section 202.

DISCUSSION

In determining the needs to be served during either the 10-year period for treatment works or the 20-year period for interceptor sewers and associated appurtenances, the Administrator must also take into account the projected increase in use by the population and associated

commercial and industrial establishments within the proposed service area for the respective 10-year or 20-year period. Capacity to serve the needs of new growth beyond that provided by the amendment is to be funded without Federal assistance.

Under current misinterpretation of existing law, reserve capacity for future growth determined to be cost-effective was considered eligible for Federal funding, resulting in excessive amount of funds being directed to this purpose. One purpose of this amendment is to concentrate available funds on correction of existing municipal problems. It would allow more municipal facilities to be funded and more serious water pollution problems to be solved.

The "10/20" rule would serve to increase the reliability given to projections of increased use in preparation and review of plans for publicly owned treatment works. Municipalities would have an incentive to include capacity beyond that eligible under the "10/20" rule only where demonstrably necessary and cost-effective. This is intended to reduce the tendency stimulated by Federal funds to build excess capacity.

The committee considered an administration proposal which would have allowed the Administrator to require construction of the most cost-effective facility even though the Federal grant would be only for that portion which met the very strict Federal limits under reserve capacity. The committee rejected this approach. The Federal Government cannot require a community to build a larger facility than that which is eligible for assistance. Otherwise, the effect would be to reduce the Federal share below 75 percent. The Administrator can approve such a project, if the applicant so chooses, although the excess reserve capacity would yield a lower Federal share.

Combined Grants

SUMMARY

This section amends section 203, Plans, Specifications, Estimates and Payments, to authorize the award of a combined step 2 and step 3 grant in the case of a treatment works costing less than $2 million which will serve a population of 25,000 or less. In States which have unusually high construction costs, the grant limitation may be increased to $3 million.

DISCUSSION

This section amends section 203(a) of the act to provide that the Administrator may, after approval of a step 1 facility plan, award a single grant for step 2 and step 3 of the proposed treatment works. The combined step 2 and step 3 grant would be allowed only in those instances where the total cost of the project does not exceed $2 million and the population of the grantee municipality is 25,000 or less.

The amendment is intended to simplify grant processing and paperwork for smaller projects and communities. This procedure will allow limited relief from the current statutory requirement that all grantees apply for funds in a three-step process. Instead, the Administrator

would be permitted to make a step 1 grant, then, following approval of the facility plan for the project, award a combined step 2 and step 3 grant. Approval of the plans and specifications prepared by grantee would be required, however, before the grantee could begin construction. The amendment will have the effect of cutting down on the number of applications and grants, and reducing the completion time and paperwork involved in a given project.

EPA estimates that approximately 50 percent of municipal wastewater treatment construction grants projects will benefit from this amendment.

It should be understood that this amendment does not authorize grantees receiving a combined step 2 and step 3 grant to enter into a single construction contract. A separate contract or contracts would have to be entered into by the grantee for the preparation and plans and specifications (step 2). In turn, a separate contract or contracts would have to be entered into by the grantee for the actual construction (step 3). However, construction management contracts would be allowed where a single contractor acts as an agent for the grantee in overseeing the work that has been contracted for under separate contracts for step 2 and step 3 work.

These are the kinds of communities for which the State should act as contract manager. Combined grants should only be used where the States have demonstrated the capability to manage their distribution efficiently.

The committee recognizes there are some States which have experienced unusually high cost of construction, such as Hawaii and Alaska. Costs in these areas can run in excess of 40 percent more than the costs of an equivalent construction project in the other States. Yet, those projects are still, in relative terms, small projects which would otherwise qualify for a combined single construction grant. These types of projects should not be required to fulfill the conditions of steps 2 and 3 separately only because construction costs are greater.

Instead, for those high cost areas, the Administrator is authorized to make combined grants when the projects costs are not estimated to be in excess of $3 million if the population of the grantee municipality does not exceed 25,000.

Contract Enforcement

SUMMARY

This section amends section 203, Plans, Specifications, Estimates, and Payments, to permit a municipality to include the EPA or a State agency as a party to any contract signed with an engineering or consulting firm for the purposes of any enforcement action.

DISCUSSION

The committee received testimony in the public hearings that most small communities do not have the legal or technical resources to force a consulting engineer or a contractor to perform on time or to correct a design, construction, or operating problem.

Under present procedures, both in the situation of a project delay or inadequate plant operation, EPA or a State agency is not able to join the municipality in an enforcement action. Direct enforcement action against the municipality, the only available remedy, does not solve the problem.

Similarly, in the increasing incidence of new, inoperable or noncomplying treatment works, the EPA and State agency are not able to get directly at the cause of the problem in many cases—the engineer or the contractor. Withholding a final, small grant payment also does not improve the operations of a poorly designed or constructed facility.

In these instances, the committee believes that more rapid progress could be made, if the EPA or States could take direct action side by side with the municipality. The agency and most States have the legal and technical resources to do so.

This amendment would authorize EPA or State agency to be a party to municipal contracts for the design and/or construction of a treatment works in a small community, in the event that subsequent action needs be taken against the contractor.

METERING

SUMMARY

This section amends section 204, Limitations and Conditions, to permit the use of something other than metering, including ad valorem taxes, for the collection of user charges from residential users of waste treatment services. If metering is not used, there must be assurance of adequate funds for operation and maintenance of the treatment works, and each user must be notified as to the amount to be used for such costs.

DISCUSSION

This section amends section 204(b)(1) of the act to authorize user charges based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. The charges must meet the requirements of subsection 204(b)(1)(A) that each recipient pay its proportionate share of costs of operation and maintenance (including replacement) of any waste treatment services provided.

If the system of charges is based on something other than metering, the Administrator must require the applicant to establish a system whereby the necessary funds will be available for operation and maintenance of the treatment works. He also must require the applicant to establish a procedure to notify the residential user as to how much of his total payment will be allocated to the operation and maintenance of treatment works.

This amendment recognizes the privilege of local goverments to carry out their responsibilities under the Act in a manner which is particularly appropriate to their citizens. The amendment allows such flexibility, while assuring that the goals of section 204(b) will be carried out.

A system of charges based on a flat fee per household or per plumbing fixture (such as a sink or toilet) would be authorized under this

amendment. A user charge system based on a flat fee for residential users would save communities the high cost of installation, maintenance, and reading of meters.

Charges levied on residential users in the manner allowed by this amendment may be collected as part of the ad valorem taxes or by some other means. Funds so collected must be sufficient for the dedicated purpose of proper operation and maintenance of the treatment works. The amendment does not authorize a system which would allow these funds to be diverted to other uses within the municipality or withheld from the treatment works.

The committee believes that public knowledge of the cost of operation and maintenance of the treatment works to individual residential users will promote efficient management of the system and foster a public interest in water conservation and other measures to reduce flows and thereby reduce treatment costs.

This provision is a modification of the user charge provision of existing law, which requires that no construction grant for a municipal waste treatment facility may be made after March 1, 1973, unless the applicant has established a system of charges to insure that each user of the facility pays its proportionate share of operation and maintenance costs (including replacement) of services provided by that facility.

As early as 1966, the problems associated with the operation and maintenance of federally financed waste treatment facilities were recognized. The major problem was the inability of municipalities to sustain the costs of operation and maintenance of facilities constructed with Federal grant money.

Most facilities were operated out of municipal budgets and were thereby subject to the fiscal constraints of municipal budgeting. These constraints included legal limitations on the amount of general obligation debt, limitations on municipal tax sources and the taxing power of special districts, and the rapid increase of the demand for other public services.

The concept of "user charges" was originally proposed as a means of assuring that each federally assisted facility would have adequate operation and maintenance funds. In this way, municipalities could employ their limited taxing powers in providing other forms of public services, and waste treatment facilities could be operated and maintained efficiently, thereby assuring adequate waste treatment services and the sound investment of Federal dollars.

Further examination of the user charge concept revealed additional benefits. A charge to the "consumer" based on cost of treatment, would be a positive force in encouraging more efficient management of wastes discharged through a municipal system as well as an economic inducement to reduce excessive use.

Under the committee amendments, greater flexibility will be provided for the assessment of user charges among residential users. The community may use water meters, sewer meters, flat rates, or ad valorem taxes, so long as the basic requirement of proportionality in the distribution of costs among each recipient of waste treatment services is assured. In adopting this amendment, the committee did not change the basic requirements of the law, only provided more options to communities.

The proposed amendment requires the Administrator of EPA to impose restrictions on the applicant who establishes a charge system based on something other than metering. The intent of these restrictions is to address the reservations raised above. First, the amendment requires the applicant to establish a system which will assure the funds necessary for the operation and maintenance of the treatment works. Such systems could include a separate fund such as an escrow account. Second, the applicant is required under the proposed amendment to notify the individual user as to the costs paid by the individual for the operation and maintenance of the treatment works.

Water Conservation

SUMMARY

This section amends section 204, Limitations and Conditions, to permit a proportional reduction of industrial cost recovery payments as the industrial user reduces his flow to the system.

DISCUSSION

This section amends section 204(b)(3) to allow a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 to reduce the amounts to be paid by any industrial user which reduces its total flow of sewage or unnecessary water consumption. The amounts to be paid are to be reduced in proportion to the flow reduction achieved as determined in accordance with regulations promulgated by the Administrator.

Industrial users are currently required to pay industrial cost recovery charges on the basis of a system developed by a grantee and approved by the Administrator. The regulations for the grants program require that this system take into account the factors such as strength, volume and delivery flow rate, to the extent they impact the cost of construction of the treatment works. This same system should be used to calculate how much charges will be reduced for an industrial user which reduces its flow into a municipal treatment works.

This amendment does not apply to grantees that receive a grant after enactment of the Clean Water Act of 1977. These grantees are expected to require all potential large industrial users to execute a binding contract to pay industrial cost recovery charges for the full capacity they require on the new treatment works in accordance with the provisions of this section.

This section also amends section 204(a)(5) to require that the amount of reserve capacity approved by the Administrator shall take into account, in accordance with regulations promulgated by the Administrator, efforts to reduce flow of sewage and unnecessary water consumption.

The current western drought and recent projections made concerning future water demand and supply indicate that the regulations of the construction grants program should be modified so as to encourage localities to reduce water use. Federal, State and local water supply and treatment costs would be reduced directly through lessened demand for water. As a result, construction grant funds would be avail-

able for a larger number of projects, thereby accelerating water quality improvement. Energy consumption would also be reduced since less water would have to be purified in water supply and sewage treatment works, and less hot water would be used in residences and commerce.

Reduction of sewage flows and water conservation can be achieved by a variety of measures, including special pricing policies, water saving appliances and flow reduction devices in household plumbing fixtures.

Less treatment and conveyance capacity will be required where flow reduction is projected in accordance with the modified regulations to be issued by the Administrator. These savings should be taken into account when determining the amount of reserve capacity to be approved in a treatment works.

Industrial Cost Recovery

SUMMARY

This section amends section 204, Limitations and Conditions, to permit the exemption of small discharges (less than 2,500 gallons a day) from industrial cost recovery requirements.

DISCUSSION

Section 204(b)(1)(B) of the Federal Water Pollution Control Act makes the granting of Federal funds for the construction of a publicly owned treatment works contingent on the recovery of that portion of the Federal share which is attributable to industrial users. Each industrial discharger is required to repay that portion of the Federal capital costs that are proportional to its share of use of the project assisted. Section 204(b)(3)(B) requires that at least 50 percent of the costs recovered from industrial users be returned to the Federal Treasury. Recent experience with existing and proposed industrial cost recovery systems indicates that the requirements of the act may place an administrative burden on some localities.

Industrial cost recovery is particularly burdensome for those localities with small industrial dischargers, each of which represents a small industrial fraction of the total flow into the publicly owned treatment works. There are certain fixed costs—for sampling, billing and collection—that are independent of the size of the discharge. Thus, for small dischargers, the cost of recovery may be as great as or exceed the costs that are recoverable from the industrial users.

The proposed amendment would exempt from cost recovery those industrial dischargers with flow rates that do not exceed a specified amount. The benefits from the exemption are the reduction of a new and added financial burden for small businesses.

The exemption flow rate is 2,500 gallons per day in the current form of the amendment. There is, however, uncertainty as to the appropriate value for the exempted flow rate. In the resolution of this uncertainty regarding the exemption flow rate, two questions must be addressed. First, what flow rate is characteristic of the small business-establishment that cannot afford the added burden of the capital costs of a publicly owned treatment works? Second, at what flow rate does it

become uneconomical to administer the industrial cost recovery process?

The committee intends that the appropriate level of use will be identified prior to completion of action on this legislation.

This amendment also will permit publicly owned, multiplant treatment works systems to be treated as a single system so that several significant economic burdens of industrial cost recovery are avoided.

A single-system cost recovery analysis would produce a more equitable distribution of costs among industrial dischargers. Currently, costs are allocated according to the proportionate use of the federally funded portion of the treatment system. Due to historical accidents of site location, this method of cost allocation produces an uneven distribution of costs among industrial dischargers. In large cities with many industrial water users that discharge into different treatment plants, the potential for inequitable cost distributions are particularly great.

The proposed change would also reduce the administrative costs that would result from the implementation of an industrial cost recovery system. In allowing the locality to view the separate systems as one large system, (1) the locality can compute the costs to be charged to dischargers based on the percent of total flow for one large system, instead of for several systems, and (2) the locality need not determine the exact locations of dischargers, since the spatial relationship between a discharger and the treatment plant would no longer be relevant. However, the committee expects that in every case the industrial share of the specific Federal grant will be repaid.

State Management Assistance

SUMMARY

This section amends section 205, Allotment, to authorize reservation of up to 2 percent of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspects of the construction grant program. Such funds may be increased to assist in the administering of the 402 permit program, statewide 208 planning, and responsibility for managing construction grants for small communities.

DISCUSSION

The bill authorizes the Environmental Protection Agency to financially assist the States to whom he has authorized certain management functions including the construction grant program, the 402 program, the 208 program and small community grants. These funds would be reserved from that State's yearly allotment of construction grant program's funds. In no case would the funds exceed 2 percent and no State would be eligible for less than $400,000.

The policy of authorizing the States to manage the construction grant program is being implemented by the Environmental Protection Agency under existing statutory authority. California already manages the full program from approval of design to approval of selection among bidders through disbursement of funds; Maryland will shortly

do the same. Twenty-eight States have taken over the permit program and States are carrying on statewide 208 planning. Other States conduct certain portions of the review process in the construction grant program. Because of State resource constraints, they need funds to perform these functions on behalf of the Federal Government.

The committee bill authorizes the Administrator to distribute up to 2 percent of the grant funds in proportion to the functions of the construction grant program that the State is conducting, whether or not the State has the 402 permit program, whether or not the State manages the permit program, whether or not the State has a statewide 208 program, and whether or not the State has the capability to manage construction grants to small communities. Each of these functions requires manpower and expertise at the State level, and Federal resources should be available in proportion to the amount of the functions conducted and therefore the needs of the program.

This provision is similar to a request by the administration that the bill authorize the Administrator to distribute the funds according to the above criteria.

The purpose of certifying the States and providing commensurate resources is to reduce duplication of effort by State and Federal levels of government, a major complaint in the program; to avoid unnecessary enlargement in the number of Federal personnel needed for program implementation; and to carry out the policy in Public Law 92–500 "to recognize, preserve and protect the primary responsibilities and rights of States to prevent, reduce and eliminate pollution."

The Administrator is expected to only make available the full amount when the State has assumed full capabilities. When a State has taken on their full responsibilities, all the funds should not be available unless the State can justify that level of funding.

Sums reserved under this amendment are available for making the type of grants just described for the same period as sums are available from an allotment under subsection (b) of this section, and any grant shall be available for obligation only during that period. Reserve funds that are not obligated by the end of the period for which they are available will be added to the amounts last allotted to a State under section 205 and would be immediately available for obligation in the same manner and to the same extent as such last allotment.

The committee expects that any reserve funds reverting to a State's general allotment will remain available for a reasonable period of time as determined by the Administrator through regulation before reallotment. In a similar vein it should be noted that in those cases where a State is granted less than the entire 2 percent of its allotment funds for the purposes of this section, or less than the entire grant of funds, the unexpended funds will revert to the State's general allotment funds as soon as the Administrator determines what percent to grant to any State in any year.

Further, the intent of this provision is that the sums not be used to reduce the level of Federal or State expenditures to administer water pollution control programs as provided in section 106 of the act. However, a grant under this provision may require the reprograming of those amounts of Federal and State funds earmarked for management of municipal facilities construction into other State program elements such as enforcement and monitoring.

Paragraph (c) (2) of this subsection provides that a State assisting the Environmental Protection Agency in the implementation of its responsibilities under sections 201, 203 and 204 may receive grants to cover the reasonable cost of that assistance.

The activities include infiltration studies, review of preliminary plans to evaluate the size and scope of the project, review of operation and maintenance programs, review of plans and specifications, determination of consistency with section 208 plans and review of priorities.

Technical assistance and information for grantees related to the activities outlined above.

The Administrator shall determine the size of the grant made to a State based on an assessment of the State's capability to assist with the activities outlined above. The assessment should take into account factors such as the State's capability and performance in reviewing facility plans and design plans and specifications, capacity to provide technical assistance, and availability and adequacy of necessary technically and professionally qualified personnel and other necessary resources.

The Administrator may increase the amount of the grant to a State under this section but in no case above the ceiling of 2 percent or $400,000 to take into account the reasonable costs of administering an approved program under section 402, a statewide waste treatment management program under section 208, and responsibility for managing waste treatment construction grants for small communities.

Further, it is understood that no grant would be made under this provision until the State has demonstrated a commitment to acquiring the capability to manage grant awards to small communities. This would include acquiring the capability to be the contract agency for any engineering, design or construction agreements. Most important, the States would have acquired resources to review plans and advise small communities on cost-effective alternatives.

The objective of this policy is to effect a more efficient means for expediting the municipal construction program, the scope and complexity of which has so increased as to make its full implementation at the local level achievable only through reliance on private contractors whose primary objectives may not be minimizing local short- and long-term costs while maximizing environmental benefits.

Two other primary responsibilities in existing law which many States have assumed are the permit program and implementation of statewide section 208 management plans and programs. An additional responsibility will accrue to the States with the delayed compliance penalty provision added to this bill.

Management of the permit program is a difficult responsibility. It requires issuance of permits that are consistent with applicable effluent requirements and water quality standards, review of monitoring reports, and necessary enforcement actions. Each of these activities is resource intensive and requires manpower.

States are finally beginning to assume their responsibilities under the section 208 program. These activities also are resource intensive. A State must integrate the section 303 water quality information, develop best management practices for nonpoint sources, develop plans for siting for industrial and municipal facilities, and review

industrial permits and municipal plants to determine their consistency with the 208 effort.

In carrying out the enforcement responsibilities, a State with the permit program will also administer delayed compliance penalties against noncomplying sources. The determination of these penalties will require adequate resources to assure that the penalties are consistent and equitable.

The committee expects the State to assume more and more of the responsibilities of the water pollution program. It has therefore fashioned a program which increase Federal resources available as responsibilities increase.

Set-Aside for Alternative Systems for Small Communities

SUMMARY

This section amends section 205, Allotment, to require the setting aside of between 5 percent and 10 percent of construction grant funds alloted to a rural State (States with a rural population of 25 percent or more of the total population of the State) for use only for alternative or unconventional systems for communities of 2,500 or less. Nonrural States may request through the Governor, a set-aside of up to 10 percent of its grant allotment to be used for such purposes.

DISCUSSION

This section amends section 205 of the act to require the Administrator to set aside not less than 5 nor more than 10 percent of a rural State's construction grant allotment exclusively for the construction of alternative or unconventional treatment works in small communities.

The provision is mandatory with respect to States whose population is at least 25 percent rural as defined by the Bureau of the Census. In general, "rural" means that proportion of a State's population living in places of 2,500 inhabitant or less. The Census Bureau reported 34 States with a rural population of 25 percent or more in 1970. (See table below.) In all other States, the Administrator may set aside up to 10 percent of a State's allotment, at the Governor's request, for this purpose. The funds so earmarked are available only for alternative or unconventional sewage treatment works in communities of 2,500 inhabitants or less, or in highly dispersed sections of larger communities, as defined by the Administrator. Projects funded under this may be identified on a special State priority list for alternative systems.

States ranked by percent of rural population

State	*Percent*
1. Vermont	67.8
2. West Virginia	60.9
3. North Dakota	55.7
4. Mississippi	55.5
5. South Dakota	55.4
6. North Carolina	54.5
7. South Carolina	51.7
8. Arkansas	50.0
9. Maine	49.2

States ranked by percent of rural population—Continued

State	Percent
10. Kentucky	47.7
11. Montana	46.6
12. Idaho	45.9
13. New Hampshire	43.6
14. Alaska	43.1
15. Iowa	42.8
16. Alabama	41.4
17. Tennessee	40.9
18. Georgia	39.7
19. Wyoming	39.5
20. Nebraska	38.5
21. Virginia	36.8
22. Indiana	35.1
23. Wisconsin	34.1
24. Kansas	33.9
25. Louisiana	33.5
26. Minnesota	33.5
27. Oregon	32.9
28. Oklahoma	32.0
29. New Mexico	30.2
30. Missouri	29.9
31. Pennsylvania	28.5
32. Delaware	27.8
33. Washington	26.6
34. Michigan	26.0
35. Ohio	24.7
36. Maryland	23.4
37. Connecticut	21.6
38. Colorado	21.5
39. Arizona	20.4
40. Texas	20.3
41. Utah	19.6
42. Nevada	19.1
43. Florida	18.3
44. Hawaii	16.9
45. Illinois	16.8
46. Massachusetts	15.4
47. New York	14.3
48. Rhode Island	12.9
49. New Jersey	11.1
50. California	9.1
51. District of Columbia	0

1970 Census

During the hearings on the Clean Water Act the Subcommittee on Environmental Pollution received ample testimony concerning the problems faced by small, rural communities in complying with Public Law 92–500. The most prominent problem is the overwhelming cost to individual homeowners of constructing, and operating and maintaining centralized, conventional public waste water collection and treatment facilities. Even where the local share of the capital costs has been only 10 percent, some communities have defeated bond issues to finance a treatment facility because of the high cost.

Witnesses testified that alternatives to those systems, such as a "non-central" facility consisting of several treatment and disposal systems serving isolated individual residences or clusters of residences, may offer a less costly solution to a small community's water pollution problems. In addition, witnesses recommended land treatment alternatives which would reuse waste water for agricultural purposes, or treat it to a quality suitable for recharging into a ground water aquifer.

Although such alternatives to conventional secondary treatment have always been eligible for funding under the act, they have been resisted by State administrators, and by the construction and engineering fraternity. Communities have been willing to explore other options when they are presented and promoted. However, few if any States actively promote alternatives, especially if there is any doubt about their reliability or their acceptability to the EPA.

Because a portion of a State's funds can be used only for nonconventional solutions, this amendment, along with the section making individuals systems eligible for grants would have the effect of creating the expertise and the interest at the State level for promoting and assisting in the development of less costly alternatives in small rural communities.

Irrigation Return Flows

SUMMARY

This provision creates a new subsection (m) of section 402, and amends section 208(b)(2)(F) of existing law. Its effect is to exempt irrigation return flows from all permit requirements under section 402 of the act, and assure that areawide waste treatment management plans under section 208 include consideration of irrigated agriculture.

DISCUSSION

Permit requirements under section 402 of the act have been construed to apply to discharges of return flows from irrigated agriculture. These flows have been defined by the Environmental Protection Agency as conveyances carrying surface irrigation return as a result of the controlled application of water by any person to land used primarily for crops.

Testimony in field hearings suggested that effluent limits based on technological methods may not be appropriate for control of return flow pollutants and the committee determined that these sources were practically indistinguishable from any other agricultural runoff, which may or may not involve a similar discrete point of entry into a watercourse. All such sources, regardless of the manner in which the flow was applied to the agricultural lands, and regardless of the discrete nature of the entry point, are more appropriately treated under the requirements of section 208(b)(2)(F).

In exempting discharges composed "entirely" of return flows from irrigated agriculture from the requirements of section 402, the committee did not intend to differentiate among return flows based upon their content. The word "entirely" was intended to limit the exception to only those flows which do not contain additional discharges from activities unrelated to crop production.

Agricultural Cost Sharing

SUMMARY

This provision amends section 208 of the act by adding a subsection (i) authorizing the Secretary of Agriculture to establish and administer a cost sharing program with landowners. Its purpose is install-

ing measures incorporating best management practices as approved by EPA for improving water quality by reducing soil erosion. $200 million in fiscal year 1979 and $400 million in fiscal year 1980 are provided for up to 50 percent sharing in areas with approved 208 management plans, with the local 208 agencies assuring an appropriate level of participation. Priority of funding is directed to areas with critical nonpoint source problems from agricultural runoff.

DISCUSSION

This section provides for the maintenance and enhancement of the quality of water in rural America. The section establishes a new program for the Department of Agriculture, in cooperation with the Administrator of the Environmental Protection Agency, to provide technical and financial assistance to land owners and operators in rural areas for implementing areawide management plans under section 208 of the Federal Water Pollution Control Act.

Financial assistance under this provision is delivered through a cost-sharing program for implementing long-term soil conservation practices for improving water quality under section 208. The funds would be authorized to the Secretary of Agriculture. Acting through the Soil Conservation Service, the Secretary, with the concurrence of the Administator of the Environmental Protection Agency, would enter into contracts with farm operators and owners for the purposes of installing measures to reduce agricultural runoff. Only those soil conservation measures approved as part of State plans under section 208 as best management practices for improving water quality would be eligible for such funding. The Federal cost share could be as high as 50 percent, unless the Secretary determines otherwise. Funds available are to be used for installation of control mechanisms and not day-to-day operating costs.

These cost-sharing funds will be made available only to those areas or States which have approved management plans under section 208. The Secretary will give priority to projects in those areas which have critical nonpoint source pollution problems from agricultural runoff. Section 208 management agencies will be required to assure an appropriate level of participation by land owners and operators in the area before funding can become available. These factors address a major deficiency of current soil conservation practices which have been criticized for not emphasizing land with the most severe nonpoint source pollution.

It is important that these funds be used to reduce runoffs in those areas with major nonpoint source pollution and that they not be used on practices by one or two operators or owners when broader participation is needed in a conservation district. In addition, the Committee expects the Secretary to look for innovative conservation measures to be funded under this program. The Secretary should give priority to developing model systems throughout an area, to develop areawide programs which will be applicable in other areas throughout the country.

The Secretary is authorized to carry out this cost-sharing program through the State soil conservation districts. Conservation districts are equipped to help plan, manage, and implement portions of the

State and areawide water quality management plans, particularly those related to the control of nonpoint pollution from erosion and sediment. They have not only perfected working arrangements with a host of Federal and State agencies and institutions, but have also developed a widespread and effective delivery system as well.

This section recognizes that the responsibilities for developing State and areawide water quality plans rest with those agencies approved under the programs administered by the Environmental Protection Agency. The program created in this section is designed to assist in implementing such plans, particularly as they affect farmers, ranchers, and other rural land users.

A major focus of efforts to achieve the national goal of clean water is the reduction and elimination of water pollution from rural sources. Field hearings by the Subcommittee on Environmental Pollution demonstrated that agricultural runoff has significant and adverse effects on the quality of the Nation's waters. Nonpoint source pollution from animal wastes, fertilizers, pesticides, and eroded soil is difficult to control because of the diffuse nature of the problem and is growing in magnitude.

The problems of soil erosion and water pollution from nonpoint sources are nearly identical. Agricultural runoff represents a dual loss to our Nation. Soil erosion depletes the productivity of land and, to the extent that it enters streams, rivers, and other waterways, degrades water quality. By reducing such runoff, topsoil quality is enhanced and conserved. The investments for improving water quality are substantial and may place a major burden on the average farmer—especially the small farmer. A system of technical and financil assistance for instituting soil conservation practices for improving water quality will encourage individuals to control nonpoint source pollution voluntarily. Such an arrangement will make it easier for operators and owners to implement those soil conservation measures identified under the section 208 management plans as the best management practices for reducing soil erosion and improving water quality, including those related to the section 404 exemptions provided in the bill.

The magnitude of the effect of soil erosion on water quality is documented. Suspended solids reaching the Nation's streams from runoff are estimated to be 700 times greater than the loadings caused by sewer discharges. The Mississippi River system delivers approximately 250 million tons of sediment to the Gulf of Mexico annually, which is equivalent to the weight of 250,000 acres of topsoil measured to a depth of 7 inches. All of the 97 percent of the Nation's rural land is a potential source of nonpoint pollution, and over 400 million acres of cropland deliver 2 billion tons of sediment annually to the streams and lakes. This runoff may carry toxic materials, and nonpoint sources may actually prevent attainment of water quality goals in spite of the progress being made with controlling point sources of pollution.

Improving water quality by reducing agricultural runoff will require modified agricultural practices, greater care in the disposal of animal wastes, and better soil conservation methods. Existing soil conservation practices have not always been effective in addressing the problem of water degradation. The General Accounting Office, for example, recently reported that existing measures are too production-

oriented and geographically disconnected. Currently, there is no attempt to focus conservation efforts on those areas which have serious water quality problems caused by soil erosion. The committee recognizes the need to assure the utilization of those conservation practices which improve water quality and to assist in the implementation of areawide management plans under section 208.

The cost-sharing program established in this section of the legislation is only for those practices which reduce the degradation of our water quality by soil erosion. The funding is available only for those practices identified as best management practices under section 208.

Grant Eligible Categories

SUMMARY

This section amends section 211, Sewage Collection Systems, to eliminate from eligibility the construction of treatment works for the control of discharges from separate storm sewers, the replacement or rehabilitation of a collection system unless necessary to correct excessive infiltration, and the construction of a new collection system unless the grant is limited to existing population, there is or will be treatment capacity to serve the system, the system is necessary to protect ground or surface water supplies or to attain water quality standards, and the alternatives had been proved less cost-effective.

Discussion

This section amends section 211 of the act to eliminate from eligibility certain categories of treatment works where such grants are made from funds authorized for any fiscal year beginning after September 30, 1977. Under this amendment facilities required to control pollutant discharges from separate storm sewer systems would be eliminated from eligibility. In addition, sewer replacement and major rehabilitation would also be eliminated unless necessary to the total integrity and performance of the treatment works and for the cost-effective elimination of excessive infiltration.

Subsection (b) of the amendment would eliminate Federal funding of collector sewer systems except under the following conditions:

(1) The costs of the project eligible for a grant are limited to those costs which can be allocated to population existing as of the date of enactment of this amendment;

(2) sufficient capacity will exist upon completion to treat sewage in compliance with sections 201 and 301;

(3) the system is deemed necessary because the disposal of wastes from existing population is constituting a threat to ground or surface water or preventing the attainment of applicable water quality standards; and

(4) alternatives to central treatment have been evaluated and found to be less cost-effective than the proposed collector sewer system in protecting ground or surface water quality.

This amendment will assure that funds made available under title II are utilized for facilities most critical to reducing pollutant discharges from municipal waste water systems and will bring the ultimate Federal cost of the construction grants program within reason-

able reach of Federal budgetary resources. These purposes will be principally achieved by eliminating the eligibilities for stormwater facilities, and in certain instances, sewer rehablitation projects and collector systems. Such facilities have traditionally been the responsibility of local communities and developers.

Rehabilitation and replacement may be necessary if maintenance has been inadequate. Funding eligibility for this category of facility tends to reduce the financial penalty a community must pay for inadequate maintenance. Eliminating the eligibility would tend to correct this problem.

The amendment recognizes in the first instance that replacement or major rehabilitation of a sewage collection system is eligible only when necessary to the total integrity and performance of that particular treatment works in the community. In addition it must be shown that replacement and major rehabilitation is the most cost-effective alternative to eliminate excessive infiltration. Thus, reduction of infiltration/inflow into sewer systems is to be undertaken when it is more cost-effective than conveyance and treatment of infiltration/inflow.

The cost of controlling stormwater is substantial even after consideration of other options such as land use controls which may be more cost-effective in some situations. The Federal share for stormwater projects is beyond the reach of the limitations of the Federal budget. It is, furthermore, a cost for which water quality benefits have not been sufficiently evaluated, particularly since stormwater discharges occur on an episodic basis during which water use is minimal. Because of these factors, the committee believes it is in the public interest to eliminate stormwater discharges from eligibilty for grants until a better assessment can be made of the benefits and of noncapital intensive solutions for stormwater control projects. Section 208 planning is now affording an opportunity to identify and to determine benefits of this type of pollution control and to analyze noncapital intensive alternatives. This amendment is not meant to restrict the opportunities available to solve pollution problems created by combined sewer overflows or bypasses.

Sewage collection system projects are presently grant eligible. Their eligibility is limited, however, by section 211 of the act which states that funds for collection systems may be provided only for the replacement or major rehabilitation of an existing system or for new collection systems in existing communities. These systems usually provide few benefits outside the community. The amendment would reaffirm the fact that those systems are essentially the responsibility of the community and that they are generally closely associated with other local community development expenditures. Furthermore, this proposal would result in a more cost-effective utilization of limited future resources for the achievment of the goals of the act. As a result of this amendment, Federal expenditures would be concentrated more in those categories of treatment facilities likely to bring about the most water quality enhancement per pollution abatement dollar expended.

Nevertheless, the amendment recognizes that some communities, particularly those in rural areas, are experiencing severe financial bur-

dens and are simply too poor to pay the entire cost of a sewage collection system as well as other needed treatment facilities for that community. The amendment would allow collector systems where disposal of wastes from the existing population is constituting a threat, by polluting ground or surface waters, or is preventing the attainment of applicable water quality standards.

Costs of the collector sewer system must be allocated between existing and projected future population, and only those allocated to existing population are eligible for a Federal grant under title II. In addition, the Administrator must determine that alternatives to central treatment where collector sewers have been evaluated and demonstrated to be less cost-effective than the proposed central collector and treatment system. Examples of alternatives to consider are measures to improve operation and maintenance of existing septic tanks, installation of new septic tanks, various means of upgrading septic tanks (including mounds, alternate leaching fields and pressure sewers), and other small systems serving individual residences or a cluster of residences, including water conservation and recycling systems where feasible.

Cost-Effective Guidelines

SUMMARY

The bill adds a new section 213 to require that cost-effectiveness guidelines published by the Administrator provide for identification and selection of cost-effective alternatives to comply with the objective and goals of the act and sections 201(b), 201(d), 201(g)(2)(A), and 301(b)(2)(B).

DISCUSSION

The cost-effectiveness guidelines currently employed in the grants program provide rules for systematic analysis and comparison of alternative approaches to achieving best practicable waste treatment technology and to meeting effluent limitations based on the requirements of sections 301 and 302. Unfortunately, the current Agency definition of best practicable waste treatment technology requires nothing more than secondary treatment. The present cost-effectiveness guidelines are strongly biased toward conventional secondary treatment.

The new section 213 requires the Agency to republish the cost-effectiveness guidelines, eliminating the bias. The guidelines must emphasize identification of alternatives involving the reclamation or recycling of waste and beneficial uses of sewage pollutants and sludges. In keeping with sections 201 and 301(b)(2)(B), such alternatives will ordinarily be the ones selected for funding. The guidelines should not require or force a single solution, but should provide evaluation of a range of alternatives to meet the Act's requirements.

Modification of Best Available Technology Requirement

SUMMARY

This section amends section 301, Effluent Limitations, to provide for a modification of the best available technology requirement for any conventional pollutant as long as the modified requirement is at least

best practicable technology, will not require controls on any other source, will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water, and represents a reasonable cost for level of reduction achieved.

DISCUSSION

The bill intends to give the Administrator of EPA a safety value in the event that the courts find he does not have flexibility in administering the 1983 requirements for industries. It authorizes a case-by-case exemption for industries which demonstrate, to the satisfaction of the Administrator, that pollutants in their discharge are not toxic or harmful to the aquatic environment; that the pollutants discharged will not interfere with the attainment of the national water quality standard (defined as that water quality which assures the protection of public drinking water supplies and the protection and propagation of a balanced population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water; that there are applicable water quality standards specific to the pollutant; that the new limitation will not be less than required by best practicable treatment; and that the exemption would not be available for pollutants designated as toxic or hazardous pursuant to the act or for which there is a primary drinking water standard under the Safe Drinking Water Act.

This approach allows the discharger to demonstrate no adverse effect of pollutants in his discharge and have his requirement reduced.

To assure that reasonableness occurs, this section authorizes a safety valve to avoid unnecessary limitations on conventional pollutants while leaving in place statutory authority to require removals of toxic or potentially toxic pollutants.

The National Commission on Water Quality recommended that Congress postpone the best available technology requirement for a sufficient period of time to determine the receiving water quality impact of compliance with the best practicable technology requirements for 1977. The Commission recommendation was based on studies which suggests that the national goal of water quality which would protect balanced indigenous populations of fish, shellfish, wildlife, and other aquatic life throughout their ecological cycle would be achieved with the 1977 requirements. And the Commission projections were based on the anticipated improvements in the dissolved oxygen content of water as a result of the application of best practicable technology.

The committee did not challenge the judgment of the Commission with respect to dissolved oxygen even though no national water quality criteria has yet been published. The committee recognizes that any particular impact water quality would be dictated by the particular location, the particular species and the particular activity in which that species was involved. Thus, higher levels of dissolved oxygen would be required in areas in which fish propagation is occurring or more susceptible elements of stream life on which fish depend for survival are growing, that might be the case in other areas.

The committee determined that, in fact, it was possible that the best available technology requirements might result in the application of

excessive controls to certain kinds of conventional pollutants for which sufficient information was available to make a judgment as between a particular discharge and a particular receiving water quality. Where that judgment could be made, the committee felt that it was appropriate that relief should be provided. The committee was particularly concerned, however, that such a waiver not be extended beyond those pollutants for which adequate knowledge has been accumulated.

The committee was impressed by the testimony of Dr. Edwin Gee, a member of the National Commission on Water Quality and a vice president of the duPont Corporation who suggested that there ought to be flexibility in the law with respect to conventional pollutants about which much is known, and there ought to be specific control requirements for toxic pollutants about which there is knowledge. He agreed that, with respect to pollutants about which there was doubt and concern, best available technology ought to be used. As the hearing record indicates, his position was in part supported by Dr. Robert Harris of the Environmental Defense Fund.

The committee was impressed by the testimony of these two witnesses and they perhaps more than any others helped shape the basis for the policy which is included in this legislation.

The availability of a waiver under this section should not be construed as a judgment by the committee that water quality standards are once more going to be the enforcement mechanism or that the Agency should abandon efforts to reduce the discharge of conventional pollutants. Current projected increases in economic activity in this country suggest that the gains made as a result of the 1977 requirements could evaporate in the middle of the next decade if only the 1977 requirements and new source performance standards are applied. Thus, for many riverways and oceanfronts, pressure must be maintained to assure improved water quality and to avoid slipping back.

The committee is particularly concerned that the waiver process adopted with respect to BAT does not become a means for delay. The waiver is pollutant specific. The specific pollutant must be reflected in a water quality standard and the other conditions of the waiver must be met.

The Administrator should take advantage of information made available by early applicants for waivers under any of the provisions for exemption or extension under the act. That information could provide the basis for a decision by the Administrator that there either is or isn't a substantial likelihood that an applicant would prevail on the merits of the case. The Administrator could join all of the applications for waivers in a particular industry or subcategory of industry in order to expedite the process and reduce the time needed to make a final determination. While the Administrator still must make a decision on each case with respect to receiving water quality in a particular location, joining these cases under one hearing and in one process would reduce the demands on resources of the Administrator and make more expeditious the determination of whether or not a waiver could be granted.

The application for a waiver should not be construed as an opportunity for relief from other effluent limitations which might be a part of a best available technology requirement. In other words, should

the Administrator promulgate a best available technology effluent limitation applicable to a category or subcategory of industry, that industry would only be eligible for a delay and a potential waiver for that pollutant for which there was a specific water quality standard. A permit would have to be issued setting forth a compliance schedule for the remainder of the pollutants specified in the effluent limitation.

If the technological result of this requirement is the same as would be the technological result if all pollutants were controlled, that is a burden of the discharger will have to bear. However, again the committee refers to the comments from Dr. Gee and others, who suggested that different technologies would yield different effluent limitation results and that the flexibility with respect to conventional pollutants would provide significant assistance to avoid unnecessary or unreasonable investments in the control of discharges for which there would be no water quality benefit.

The committee does not want a repetition of the kind of interpretation that was placed on the 1972 Act and the kind of result that has occurred from implementation of the 1972 Act with respect to thermal discharges. There is nothing in these new provisions which in any way preempts the rights of States to have more stringent water quality standards or associated effluent limitations; there was nothing in the 1972 Act that caused that result, any interpretation by the Administrator to the contrary notwithstanding. More important, the limited waiver for thermal effluent limitations was not intended to be a major loophole. And yet the result of administrative interpretation has caused a virtual elimination of control requirements applicable to powerplant and other major industry thermal discharges. What was intended to be a very narrow opportunity to prove that federally promulgated effluent limitations for heat discharges might be more stringent than necessary to provide for the protection of a balanced indigenous population of fish, shellfish, and wildlife has become a process for wholesale exemption from the act. This is an unacceptable result, the effect of which has been to eliminate the requirements of best practicable treatment for heat discharges.

The Administrator is expected to review any application for a waiver under either this provision or the secondary treatment provision to determine whether or not there is a substantial likelihood that the discharger will prevail on the merits of the case and if he concludes that there is not, he should reject it immediately so that the applicant may begin to comply with applicable effluent limits. The committee does not want to find, 5 years hence, a group of petitioning communities and industries who claim that they cannot comply with the 1983 requirements because pursuit of administrative and judicial remedies made timely compliance impossible.

Many industrial dischargers have testified that the best practicable technology effluent limitations required in 1977 have provided a high degree of water quality improvement with the result that BAT requires treatment of conventional pollutants not deemed necessary to meet the 1983 water quality goals of the act. The intent of this section is to allow modification of BAT requirements is cases where this may be true. In this way treatment for the sake of treatment would be pre-

vented. By requiring that a pollutant be addressed by an applicable water quality standard, the committee intends to limit variances to those "conventional" pollutants for which water quality standards traditionally have been developed and for which it is readily apparent whether 1977 effluent limits have resulted in water quality suitable for protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife and recreational activities, in and on the water. Conventional pollutants, in general, are those naturally occurring, biodegradable oxygen demanding materials and solids. Solids may be naturally occurring and oxygen demanding or biologically inactive such as clays or humic materials.

In order to reemphasize that modifications to BAT are intended for non-toxic conventional pollutants only, the bill prohibits variances for pollutants listed under section 307 or 311, the *Natural Resources Defense Council* v. *Train* judicial order and pollutants limited in primary drinking water standards under the Safe Drinking Water Act. The committee's intent is to prohibit both those pollutants known to be toxic or hazardous and those suspected of being toxic or hazardous. It should be noted that such generic pollutant parameters such as biochemical oxygen demand (BOD) and suspended solids will not always be suitable for variances under this section. Both BOD and solids may be considered "conventional" or nontoxic in some instances while in other cases they may have toxic or potentially toxic constituents.

In establishing a requirement that reduction in effluents bear a reasonable relationship to costs of reduction, the committee intends a general test of reasonableness. No strict balancing of costs and benefits is contemplated nor is any quantification of benefits intended. This provision's goal is to limit unnecessary "treatment for treatment's sake."

The committee intends that current effluent limitations, i.e., those represented by BPT and any more stringent requirements of first round NPDES permits, should represent a "floor" or minimum requirement of the modifications authorized by this section. Current levels of discharge must not be relaxed by this provision because that would imply additional treatment requirements on other point or nonpoint source dischargers.

Modification of Secondary Treatment Requirement

SUMMARY

This section amends section 301, Effluent Limitations, to provide for a modification of the secondary treatment requirement for any conventional pollutant in a discharge into marine waters from existing principal sources if it can be shown that the modification will not interfere with protection of public water supplies and the attainment or maintenance of that water which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water, will not require additional controls on any other source, assures enforcement of all applicable pretreatment requirements, and assures that there will be no substantial increase in the volume of the discharge.

DISCUSSION

For those communities which can show that existing deep marine discharges require less than secondary treatment, a case-by-case review waiver is provided. Such a waiver would be based on stringent criteria discussed below. The waiver would be reviewed every 5 years to assure continued compliance with these conditions.

This subsection is the result of recognition that there are some coastal areas of the United States and its territories where natural factors provide significant and in some cases sufficient elimination of traditional forms of pollution from publicly-owned treatment works to avoid the necessity of providing secondary treatment.

An applicant, in order to obtain this relief, must demonstrate to the satisfaction of the Administrator that six conditions are met. The first condition is that there is an applicable water quality standard specific to the pollutant for which the modification is requested. The degree of effluent reduction necessary to meet this standard must be provided as a minimum.

The second condition is that the modified requirements would not interfere with the attainment or maintenance of that water quality which assumes protection of public water supplies and propagation of a balanced population of shellfish, fish and wildlife, and allows recreational activities, in and on the water.

The third condition is that the modified requirements will not result in any additional requirements on any other point or nonpoint source.

The fourth condition is that all applicable pretreatment requirements will be enforced. The fifth condition is that there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

The last condition is that any title II funds available to the owner of the treatment works are to be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection. The referenced provisions of section 201 may require a degree of effluent reduction which is greater than that required under this section of the act as amended. Available title II funds shall be used in this case to achieve the requirements of section 301 as amended before they are used to achieve the requirements of section 201. Uses of funds appropriate to carrying out the purposes of the section might include infiltration and inflow work, interceptor construction and repair, and proper location of outfall lines.

The amendment defines the "discharge of any pollutant into marine waters" as a discharge into deep waters of the territorial sea or contiguous zone or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines are necessary to comply with the second condition described above, and section 101(a)(2) of the act.

Depth is a key factor in determining the amount of circulation in waters of the territorial sea or contiguous zone. Circulation in turn affects the degree to which waste water discharges to these waters are rapidly dispersed. In some instances, depth of water in the territorial

seas or contiguous zone in excess of 200 feet is necessary to achieve sufficiently rapid dispersion (i.e., 45 seconds) of waste water and waste water constituents. In some instances, depth of 200 feet is insufficient to provide adequate dispersion. Poor net flushing (i.e. stagnation) of a deep basin may cause undesirable vertical cycling of discharges.

Factors determining the amount and rapidity of dispersion of saline estuarine waters are the degree of tidal movement and other hydrological and geological characteristics. In some cases, rip currents and strong tidal movements which contribute to high flushing efficiency in certain bays and estuaries, may provide sufficient circulation. Additional precautions, however, need to be considered in or near the mouths of estuaries due to possible tidal transport of pollutants landward into estuarine areas where they may be retained.

Distance offshore for location of outfall lines is also a factor which must be considered in many situations. In these cases, sufficient distance offshore is generally necessary so that adverse water quality conditions will not be created under assumed worst conditions of onshore current and wind based on data derived from historical records.

Greater distance offshore may provide the desired protection during adverse conditions of onshore currents and wind. Geological characteristics such as submarine canyons may also be utilized because of the same advantages of rapid dispersion and desirable circulation.

There are, of course, constituents, such as polychlorinated biphenols (PCBs), which irrespective of depth, tidal movement or other factors related to circulation in marine waters, cannot be adequately dispersed because of their persistence.

Areas described by these conditions include most of the coast of the western United States, the coasts of Hawaii, Puerto Rico, American Samoa, the Virgin Islands, and portions of estuarine waters such as Cook Inlet near Anchorage, Alaska, and Resurrection Bay near Seward, Alaska.

This provision assumes that any criteria promulgated by the Administrator under section 403 remain applicable.

Municipal Time Extensions

SUMMARY

This section amends Section 301, Effluent Limitations, to permit a case-by-case modification of the July 1, 1977, deadline for publicly owned treatment works up to July 1, 1983, where construction cannot be completed or where Federal funds have not been made available. Such modification is available to dischargers into the system if such dischargers have been found to have acted in good faith.

DISCUSSION

This amendment allows the Federal or State approved permitting agency to extend the July 1, 1977, deadline for the achievement of secondary treatment by sewage treatment plants on a case-by-case basis. Many municipal sewage plants are unable to meet this deadline through no fault of their own and often due to the inability of EPA to make adequate funding available to allow construction of necessary facili-

ties. The purpose of this amendment is to allow the permitting agency to extend the date of compliance for those treatment works, and industries with contracts to tie-in to treatment works, which have made all possible efforts to meet the July 1, 1977, deadline and whose failure to do so is primarily the fault of the Federal Government. For those industrial and municipal sources which are unable to meet this statutory deadline due to their unwillingness to take appropriate actions and spend necessary amounts of money at the earliest possible time, the committee intends that no extension be granted and that enforcement actions be undertaken under section 309.

Proposed section 301(f)(1) allows the permitting agency, in its discretion, to extend the statutory deadline for secondary treatment for sewage treatment plants, provided that either (1) major new construction is required and cannot reasonably be completed by the statutory deadline, or (2) necessary Federal financial assistance under title II of the Federal Water Pollution Control Act has not been available. The committee intends that the major construction required relate to essential parts of the treatment system of the plant itself, not collector sewers, administration buildings, or operations and maintenance expenses. In determining whether or not to grant the extension, the permitting agency must consider whether the delays in construction were due to EPA's inability to make available appropriate construction grant moneys promptly, or whether the fault lies with the municipality's unwillingness to move as fast as possible with all available resources toward the achievement of the requirements of secondary treatment.

If an extension is granted, the permitting agency shall specify in the permit that final compliance with the requirements of secondary treatment be achieved at the earliest date practically possible, but in no event later than July 1, 1983. In addition, the permit shall contain any other requirements necessary to carry out the act, including interim effluent limitations to be achieved by the application of the best possible operations and maintenance practices and other noncapital intensive measures. The facility should be required to treat as much waste as possible, as thoroughly as possible, leading to the achievement of 1977 requirements of the act. In addition, the permit shall contain such requirements as are necessary to achieve the requirements of water quality standards, best practicable waste treatment technology, toxic effluent limitations, and pretreatment standards.

Section (2) of proposed section 301(f) allows the permitting authority, in its discretion, to extend the date of compliance with the July 1, 1977, deadline for nonmunicipal point sources which intend to discharge their waste to a yet unfinished sewage treatment plant. When Congress enacted the Federal Water Pollution Control Act Amendments of 1972, it encouraged industries to send wastes of the type that could be treated by local municipal sewage treatment plants to those plants for treatment, thereby avoiding duplication and expense. To be consistent with that purpose, the committee intends that nonmunicipal sources which are firmly committed to tie-in with a municipal sewage treatment plant, not be forced to build duplicative treatment facilities pending the completion of the sewage treatment plant.

Several criteria must be met, however, before the nonmunicipal point source can be considered for an extension. First, the point

source's permit must evidence a decision to tie-in to the municipal treatment works. Permits issued to these point sources several years ago include provisions which will require modification if an extension is granted. The permit, written when all parties intended a tie-in prior to July 1, 1977, may have effluent limitations requiring zero discharge at the time of the contemplated connection. In some cases, the permit may explicitly state that a tie-in will occur on a certain date, and prohibit later discharges to navigable waters of pollutants sent to the municipal plant for treatment. In either case, the permit must be modified to reflect the new tie-in date.

Second, the sewage treatment plant which is the intended recipient of waste from the nonmunicipal point source, must either have obtained an extension pursuant to the first paragraph of this section or require substantial construction in order to process the waste. Some sewage treatment plants, while fully able to meet the requirements of the July 1, 1977, deadline, have not yet completed construction of those sewer lines necessary to complete the tie-in. (Note that the definition of "major construction" in this section is different from that used in section (1), in that construction of sewer lines is included if the lines are intended to connect an industrial contributor.) Other plants, while possessing adequate sewer lines, have not contructed facilities necessary to handle the increased flow from new industrial contributors. This section allows the industrial point source to obtain an extension of its final effluent limitations pending the completion of this major construction by a sewage treatment plant, provided that the sewage treatment plant has fully planned and can demonstrate to the satisfaction of the permitting authority that it can complete construction by July 1, 1983.

Third, no extension can be granted unless the permitting agency finds that the sewage treatment plant will be able to meet the requirements of secondary treatment and water quality standards when the waste from the contributing industry is received.

Fourth, the point source and the sewage treatment plant must have entered into a binding contract providing that the contributor agrees to discharge its waste to the treatment plant, and the sewage treatment plant agrees to accept and treat that waste by a certain date. Also, the contract must provide that the contributor agrees to pay all user charges and construction cost recovery charges required under section 204 of the act.

In order to assist the permitting agency in protecting the public interest, the agency is instructed to consider the good faith of the industrial discharger in deciding whether or not to grant an extension of the 1977 deadline. For the purposes of this section, a finding of good faith includes the consideration of any possible economic advantage *vis a vis* other competing industries, and whether the point source has met the requirements of its existing permit and operated its limited facilities competently and responsibly.

If all the above conditions are met, the permitting agency may extend the date of compliance with final effluent limitations either to correspond with any extension granted to the receiving treatment work, or to the earliest possible date that sewage plant construction permits the tie-in (in no event later than July 1, 1983). The permit

allowing such an extension shall not allow any extension of the permittee's obligation to comply with pretreatment standards and toxic effluent limitations. In addition, the permittee will be required to operate its existing treatment facilities, and in the discretion of the permitting authority, construct such additional facilities, as may be necessary to meet any interim effluent limitations in the permit. While the committee does not wish to force industries to build duplicative treatment facilities due to a short delay in the completion of a sewage treatment plant, it is only reasonable that those industries which can utilize noncapital intensive measures to improve the quality of their wastes should be required to do so as an interim step. The committee also intends that the permitting agency consider and, if appropriate, require the use of recycling and other water conservation requirements, to be set forth in the permit.

The Administrator may not grant an extension for an industry which intends to discharge through a municipal system if he determines that the municipality will not have its treatment works completed by July 1, 1983. In that event, the Administrator is required to issue the affected industry a permit which sets forth an effluent limitation and a compliance schedule which will assure compliance by that source at the earliest reasonable date.

This limitation makes it incumbent on States to assign a high priority to joint municipal-industrial facilities which if not built on a timely basis would force industries into an alternative course of action. It is not a Federal judgment as to which project should receive priority as between two projects which are designed to meet the enforceable requirements of the act.

A municipal waste treatment facility and a joint municipal-industrial facility both of which are designed to meet best practicable treatment technology for municipalities have, with respect to the Administrator's authority, equal priority under the law. The State and only the State can decide which is to receive a higher priority. The Administrator's only responsibility with respect to any such contingency is to let the State know that the effect of giving priority to the municipal waste only plant may be to force industry planning to use a joint plant into separate treatment facilities.

Procedures for Modifications

SUMMARY

This section amends section 301, Effluent Limitations, to establish the procedures for obtaining a modification of secondary treatment and best available technology requirements.

DISCUSSION

This amendment establishes a procedure for filing applications for a modification of the requirements of the act for secondary treatment for publicly owned treatment works which discharge into marine waters, and for the 1983 best available technology requirement for other point source discharges.

The amendment requires that any publicly owned system or industrial discharger which wants a modification must file his application to that effect with the Administrator within 9 months of enactment of the 1977 amendments (or in the event that EPA has not promulgated effluent guidelines for the pollutant in question, within 9 months of such a promulgation).

The amendment makes clear that the mere application for a modification does not stay any requirement to achieve BAT or secondary treatment by the applicant, unless the Administrator determines that there is a substantial likelihood that the applicant will qualify for the modification on the merits of his application. In the case of a modification of the best available technology requirement, the Administrator may condition a stay on the filing of a bond or other appropriate security, such as a line of credit, which will assure timely compliance with the requirements for which a modification is sought.

This provision is intended to discourage the use of the modification procedures for delay by dischargers which have no reasonable chance of qualifying for a modification. Otherwise, the exemptions would provide an opportunity to "buy time" and result in failure to meet the deadlines in the act.

Innovative Technology for Industrial Discharges

SUMMARY

This section amends section 301, Effluent Limitations, so that any industrial point source dicharger proposing to replace existing production capacity with an innovative process which will achieve a greater reduction in effluent than that achievable with the application of "best available technology," or achieve at least equivalent reduction with an innovative system that has the potential for significantly lower costs industrywide than the BAT level determined by the Administrator, could receive an extension of the deadline for compliance with "best available technology" for a maximum of 2 years beyond the July 1, 1983, deadline.

DISCUSSION

This provision is similar to the innovative technology extension adopted by the Senate in the Clean Air Act amendments, and is intended to encourage improved or cost-saving technologies for meeting the national goal of eliminating discharges of all pollutants. Its clear intention is to further the state of water pollution control technology and not to provide a means for delay in compliance with the deadlines established in the act. The improvements in the proposed system must be significant before the Administrator (or a State with an approved permit program under section 402) may grant such an extension, and a substantial burden of proof rests with an applicant to demonstrate that the proposed technology represents a significant development with industrywide application.

Information and Guidelines

SUMMARY

The bill adds a paragraph to section 304(a) of the act requiring the Administrator to develop and publish information on the factors necessary for the protection and propagation of balanced, indigenous populations of shellfish, fish, and wildlife, and to allow recreational activities, in and on the water. To the extent practicable, the Administration is to publish this information within 6 months after enactment and before consideration of requests for modifications of the best available technology requirement for industry or the uniform secondary treatment requirement for municipalities discharging into deep ocean waters.

DISCUSSION

Both the provision for modification of the 1983 industrial requirements and the uniform secondary treatment waiver for ocean-discharging municipalities allow modification only to the extent that it will not interfere with the attainment or maintenance of the 1983 national water quality standard which provides for that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water. Currently, however, no adequate definition of this standard exists.

Section 304(a) of the act called for publication of information on the factors necessary to attain the national water quality standard. The water quality criteria documents published by the Agency do not adequately identify those factors. The purpose of this amendment is to provide timely guidance on what constitutes water quality adequate to assure in any given situation a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the waters.

The committee wishes to emphasize its intent that the achievement of this goal requires that fish and shellfish populations, where appropriate, shall be fit for human consumption under applicable Federal and State laws. The committee understands that toxic pollutants may be accumulated in organisms in the food chain at levels which may not indicate acute or chronic toxicity effects. However such concentrations when bioaccumulated by fish and shellfish may exceed tolerances or guidelines established under the Federal Food, Drug, and Cosmetic Act for the consumption of such fish or shellfish by man. In the committee's opinion the discharge of toxic pollutants in amounts which results in the bioaccumulation of such pollutants to levels in the food chain which may present public health hazards is not compatable with the attainment of the 1983 goal.

One problem has been the slightly varying phrasing of the national water qulity standard in different parts of the act. The committee intends that each such provision be read as stated in new section 301 (d) and (e). A balanced, indigenous population is that which would naturally occur in those particular waters without the effect of man's activities.

Best Management Practices for Industry

SUMMARY

This section amends section 304, Information and Guidelines, to permit the control, through best management practices, of ancillary industrial activities which contribute toxic pollutants to the navigable waters.

DISCUSSION

The amendment to section 304, adding a new subsection (e), authorizes the Administrator to publish regulations for ancillary industrial activities of point source dischargers which contribute pollutants designated as toxic under section 307 to navigable waters. For these ancillary activities, the regulations will specify treatment requirements, operating procedures, and other management practices by classes and categories of point source dischargers. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable, being considered as requirements of sections 301, 302, 307, or 403. Of course, prior to promulgation, the same type of controls could be imposed in permits through case-by-case determinations under section 402(a)(1).

This amendment closes a gap in the current regulation of toxic pollutants through the permit program. Under the Federal Water Pollution Control Act of 1972, management and operating practices to abate the discharge of pollutants may only be imposed in permits indirectly; e.g., through sections 402(a)(2); 401(d); 208(e); or 301(b)(1)(C). Where such indirect authority is unavailable, the result may be control of only a part of the total "toxic pollutant picture" for a given industrial site or process. Limiting pollution control in this manner may often serve to undermine overall water pollution abatement efforts. For example, wastes containing toxic pollutants may be removed from a point source discharge by treatment, only to cause another form of water pollution problem due to improper onsite disposal practices.

Under the terms of the amendment, direct regulation of the totality of a toxic pollutant problem through management requirements in permits would be available. Increased water pollution control would be provided for such concerns as site runoff, spillage or leaks, lagoons, sludge or waste disposal, and drainage from raw materials storage, as they relate to the processes of an industrial point source discharger.

The following example serves to illustrate the possible use of the amendment's provisions for control of ancillary industrial activities. In the case of an industrial plant that stores materials in open areas, the permit, in addition to specifying effluent limitations for the point source discharge, could prescribe procedures for the protection of materials from rainfall and runoff, on the collection and treatment of such runoff. The same permit could prescribe methods for the handling and onsite transport of raw materials, waste sludges, lagoons, or byproducts to minimize spillage or accidental release of toxic pollutants that could flow or be washed into navigable waters.

Two recent environmentally devastating incidents underscore the need for this authority:

—The carbon tetrachloride spill into the Ohio River was the result of an improper storage practice. Had proper storage practices been specified, that spill might have been avoided.
—The toxic chemical mirex from the Hooker Plant in Niagara, which contaminated Lake Erie, was not an intentional discharge. It was a leak. Had the Administrator specified practices to avoid leaks, that also could have been avoided.
—The runoff of Kepone into the James River from outdoor storage areas could have been prevented.

Effective use of this authority should reduce significantly a major and potentially disastrous source of serious water pollution. Wherever possible the Environmental Protection Agency should specify alternative practices or control measures that will achieve the intended results. In specifying discharge permit conditions the Environmental Protection Agency or the State should allow the point source to substitute other control measures or practices where equivalent results can be obtained.

It is the intent of the committee that the Environmental Protection Agency be vigorous in exercising this new responsibility. The pollutants subject to this authority are the most hazardous to water ecosystems and public health.

Interagency Agreements

SUMMARY

This section amends section 304, Information and Guidelines, to authorize $100 million for each of the fiscal years 1979–88 for interagency agreements to encourage the use of expertise in other Federal agencies.

DISCUSSION

The Administrator may enter into agreements and fund programs of the Departments of Agriculture, Army, and Interior, as well as other departments and agencies, for the purpose of achieving and maintaining water quality through the appropriate implementation of the act.

Funds originally authorized by the act for interagency agreements expired on June 30, 1974, leaving the Administrator with the authority to enter into agreements with the Secretaries of Agriculture, the Army, and Interior but lacking the appropriations to implement any such agreements. This amendment would reauthorize funds to implement such agreements; transfer funds to the above Departments; and would broaden this authority to include Federal agencies other than those above.

This amendment would serve to coordinate Federal agencies through interagency work agreements. Thus, it would accomplish implementation of water quality management control programs on Federal lands, and the development and implementation of innovative nonpoint source controls by State agencies. The provision would also support and build State and local capabilities to implement their 208 programs through training and technical assistance.

State Reports

SUMMARY

This section amends section 305, Water Quality Inventory, to permit the submission of State water quality reports every 2 years instead of every year.

DISCUSSION

This section amends section 305 of the act to require the State water quality inventory report to be submitted biennially beginning October 1, 1976, in lieu of the present requirement for annual reports. This will reduce the administrative burden on the States.

The State water quality inventory reports serve an important function of requiring the States to assess at regular intervals the quality of their waters. In this way, information can be developed which will give the States, EPA, and the Congress a measure of the effectiveness of the entire Federal water pollution control program. This report should be an important planning tool for the States.

Toxic Pollutants

SUMMARY

This section amends section 307, Toxic and Pretreatment Effluent Standards, to revise the procedures for establishing and publishing a toxic pollutant and extend the period for compliance from 1 to up to 3 years as long as there is no significant risk to public health, public water supplies, or the environment.

DISCUSSION

With respect to section 307(a), the purposes of the changes are to enable the Administrator to act expeditiously to set and enforce standards for known toxic pollutants. Control of these pollutants should not wait until the implementation of best available technology.

These proposed changes would (*a*) allow the Administrator to specify, on occasion, toxic pollutants appropriate for regulation; (*b*) change from formal to less formal the rulemaking now required before promulgation of specific limitations; (*c*) extend the rulemaking from 180 days to 270 days to permit time for public participation; and (*d*) extend the 1-year compliance date for toxic effluent limitations to as soon as possible but no later than 3 years.

This section, largely taken from the present law, requires EPA to propose and then promulgate effluent standards for toxic pollutants whenever the Administrator determines such standards to be necessary. In making such determination, the Administrator shall take into account a pollutant's toxicity and the extent to which effective control is being or may be achieved under other regulatory authority.

Standards must be proposed within 6 months after a toxic pollutant has been identified. EPA must hold public hearings after proposal, if requested, and promulgate standards within 270 days of proposal. Any standard must provide an ample margin of safety. Compliance

with the standard must occur within 1 year of promulgation unless the Administrator determines that it is technologically infeasible in which case he may extend the compliance time up to 3 years if there is no unreasonable risk posed to the environment.

The two major changes to this section from the present statute are the change from a formal rulemaking procedure to a less formal procedure and a provision for extended compliance times.

The first change would replace the present requirements of formal "trial-type" rulemaking hearings on the record with a less formal rulemaking. This would involve a procedure similar to that which is presently required in connection with the establishment of pretreatment standards under section 307(b) of the act. This type of proceeding is less resource-intensive than the trial-type hearing. In addition, it is less prone to compelling the parties to adopt rigid adversary positions, yet should be just as effective in eliciting relevant information for standard setting.

In order that the change does not preclude an adequate opportunity for all views to be represented, the committee included a requirement that the public hearing provide an opportunity for both oral and written testimony, cross-examination as appropriate, and a full transcript available to the public.

The committee believes that trial-type hearings preclude any opportunity for less formal discussion, candid evaluation of data, and compromise, all of which may be important in the rulemaking process. It is therefore in the best interests of sound and reasoned rulemaking to replace the adversary process with less formal procedures similar to those utilized elsewhere throughout the act.

The second change would allow for extended compliance time under certain circumstances. Installation of pollution abatement technology can often require lead times exceeding 1 year. This provision would allow the Administrator to extend compliance in those instances if by doing so he would not subject public health or the environment to unreasonable risks. The committee does not intend the up to 3-year compliance provision as an endorsement for relaxing time for compliance under this section. The committee believes that some substances can and should be regulated in less than 1 year. Therefore the "unreasonable risk" evaluation in determining compliance times is most important in preserving the purpose and integrity of section 307(a).

The bill would further amend section 307(a) so as to extend the maximum rulemaking period from 6 months to 270 days. Whether the rulemaking proceedings are formal as presently exist, or informal as now proposed, 6 months is often too short a time to allow public participants, including both industry and environmental groups, to fully prepare their evidence on the highly sophisticated issues relating to toxic effects, degradability, persistence, bioaccumulation, human health effects, exposure, and other factors which are or may be related to the setting of toxic pollutant effluent standards. By authorizing the Administrator to consider the extent to which regulatory controls may be achieved under other authorities in identifying 307(a) pollutants, the committee intends to encourage use of the most effective regulatory mechanism to deal with the problem.

During the course of its hearings the committee examined in detail EPA's proposal and strategy for controlling the discharge of toxic pollutants primarily through the development of effluent guidelines for the best available technology economically achievable under section 301(b)(2)(A) and the subsequent reissuance of permits under section 402 to require the application of such technology by dischargers by July 1, 1983. The committee approves of and endorses this strategy.

The committee is concerned, however, that several aspects of EPA's present implementation of the permit program are not developed sufficiently to assure that toxic discharges will be adequately controlled. The Agency presently lacks a complete data base indicating the nature and amount of toxic pollutants being discharged from the point sources subject to the permit program. This should be remedied.

The absence of a national data base, automated or otherwise, of effluent data makes it difficult for the Agency or the committee to evaluate the degree of pollution reduction actually accomplished by the program and the degree of national uniformity of effluent requirements imposed by permits. The ability to make such evaluations will be doubly critical as the Agency moves into the second round of permit issuance to control toxic pollutants.

The committee understands that the Agency presently receives a sufficient amount of reporting from permitholders regarding the nature of their discharges in the form of self-monitoring reports that could be used to develop this data base. It also understands that despite some efforts within the Agency to develop an automated data system to assemble this information, that such a system is still only in conceptual stages.

The committee believes it to be imperative that the Agency place a high priority on the establishment of such a system to the end that it be fully operational in time to track the implementation of the Agency's control of toxic pollutants. In a related matter, there have been suggestions that permitholders report to the Agency only when their self-monitoring data indicates a violation rather than reporting the observed nature of their discharges. This concept of reporting by exception will not help to supply the Agency and the committee with information necessary to determine whether the waters of the United States are being cleaned. It is necessary that this information be supplied and cataloged so that not only can the committee and the Agency ascertain that some positive effects on the waters are occurring but also that those municipalities and industries who are expending large sums of money should be assured their expenditures are resulting in a nationwide cleanup.

Regulations and regulatory uniformity are necessary if this act is to be successful in cleaning the waters. The Environmental Protection Agency should never lose sight of the fact that its prime mission is regulation of dischargers. The committee is concerned that the Agency is not devoting sufficient resources to carry out some fundamental regulatory requirements. The committee understands that the Agency does not plan to reissue permits to more than the 8,000–10,000 dischargers which it has categorized as "major." The committee disagrees with the Agency's determination that only these "major" dischargers are of concern to the Nation's waters. Many other discharges contain toxic pollutants which must be controlled. The committee believes that

the Agency should devote the resources necessary to make sure that all discharges to the water of the United States have national pollutant discharge elimination system permits. That requirement is clear in the act.

PRETREATMENT

SUMMARY

This section amends section 307 to provide a mechanism for EPA enforcement of pretreatment standards for pollutants which pass through or interfere with municipal treatment processes or contaminate sewage sludge.

DISCUSSION

With respect to pretreatment, the committee bill provides a mechanism to directly enforce national standards for pollutants which pass through or interfere with municipal treatment processes or which contaminate sewage sludge.

Because indirect dischargers are not subject to permits, where a municipality fails to enforce against a discharger in its system, EPA or the NPDES States does not have a statutory mechanism to pursue the enforcement. In the absence of an aggressive municipality, which may be dependent upon the industry for revenue, there is often no enforcement of the pretreatment requirements.

This creates inequity if indirect discharges are not subject to the same enforcement for toxic pollutants as direct discharges.

Sludge contaminated with toxic materials is unusable as a soil conditioner and unfit for disposal in most landfills so the committee amended sections 307(b) and 304(b) to make contamination of sludge criteria to the effluent limitations for pretreatment.

Amendments to sections 307 (b) and (c) require that one of the criteria for development of pretreatment standards, that of interference with the operation of the treatment works, be clarified to include sludge disposal operations. Essentially, this means that pollutants are not considered to be removed by a public system if such removal results in the contamination of the sludge or otherwise hampers the disposal of the system's sludge. For pollutants which require pretreatment standards, the amendments require at a minimum, the application of best available technology in national pretreatment standards.

The philosophy behind both of these amendments to section 307 is that removals tend to aggrevate sludge disposal problems and are not satisfactory means of pollution abatement and control. Many communities are already faced with serious problems in disposing of the ever-increasing quantities of sludge. The presence of industrial pollutants, many of which are toxic, in the sludge often tend to complicate further the municipality's problems by either limiting the disposal options available to it or making available disposal methods more expensive as well as more environmentally troublesome.

The only way to avoid this problem is to prevent, to the maximum extent feasible, the industrial pollutants from entering the plant in the first place. Some industrial pollutants, even of a toxic nature, can in fact be adequately treated in a typical plant, that is to say, they

do not pass through untreated, they do not hamper the performance of the treatment works and they do not interfere with sludge disposal. The amendments would not require that pretreatment standards be set in such cases. But where any of these problems would or is likely to occur, pretreatment should be required.

Another reason for minimizing the consideration of removals in the development of national pretreatment standards is that the performance of treatment works on industrial waste, except in those few cases where the system is specifically designed to treat a certain type of industrial waste, is extremely variable. Data that have been presented to this committee indicate that secondary treatment removal efficiency for metals varies from between 10 and 70 percent. Variability of such magnitude makes the assumption of specific level of removal, when setting national standards, almost impossible.

In the long run, the only real solution to the problem of safe disposal of toxic or hazardous industrial pollutants is in their reuse and recycling by industry, not the transfer of such materials from one industrial waste stream into municipal waste streams or from the water media to the air or solid waste media. Such reuse and recycling can only be encouraged by Federal standards based on the best available technology. Best available technology must be defined by the Administrator in much the same process that is used in defining effluent requirements for direct discharges keeping in mind that what is available and reasonable for industries discharging into municipal systems may be different from what is available and reasonable for direct dischargers in the same industrial category.

The committee is concerned with the pace at which the Agency has acted to establish pretreatment requirements for industrial users of municipal waste treatment facilities. This failure on the part of the Administrator has resulted in the construction by communities of waste treatment facilities which have no capability to handle industrial waste separately, and thus many industrial wastes are either interfering with waste treatment processes, passing though facilities without treatment, or contaminating the sludge of those facilities.

It is essential that the Administrator establish pretreatment regulations for these kinds of pollutants. At the very least, a list of potential pollutants in each category should be distributed to all potential grant applicants and the Administrator should begin to assist communities in developing alternative ways to deal with the wastes of industrial dischargers which intend to use municipal facilities.

There is no provision in the law which prohibits a municipality from performing the pretreatment task for industry if this approach is the most feasible and cost-effective way of handling the problem. In many cases, this may not be a feasible approach. But certainly in areas where there are older industries with limited space which have serious problems handling their own wastes, every effort should be made to provide them with an option to assure the maximum reduction of section 307 pollutants, section 311 pollutants, and the 65 consent decree pollutants from being discharged into the municipal waste stream.

The amendments regarding pretreatment also stipulate that local pretreatment programs must be required as a condition of any grant made under title II of the act as well as any permit issued to a pub-

licly owned treatment works under section 402 of the act. This provision is intended to insure that communities share in responsibility for the development and implementation of appropriate pretreatment standards. Well operated pretreatment programs are essential to the efficient design and operation of public systems and that such programs should be developed in conjunction with the granting of any Federal moneys for the construction of treatment works. Moreover, to insure the continued operation of such programs and to insure that such programs are developed in a timely manner in cases where grants are not being processed in the immediate future, the amendments call for local programs as a condition of any section 402 permit. The nature of such programs and the timing for the development of such programs in cases where title II grants are not pending will have to be established by the Administrator through appropriate regulations.

The bill amends section 304(f) to make the same clarification regarding sludge contamination and the appropriateness of best available technology that were incorporated into section 307. This insures that guidance issued under this section is developed in the same light as standards that are developed under section 307 (b) and (c).

Section 402(b)(8) is amended to insure the identification of pollutants that are introduced into municipal systems, to provide for the development of local pretreatment programs and to make the requirements of local pretreatment programs enforceable under sections 309 and 505 of this act. Section 309 also is amended to insure that anyone who discharges a pollutant to which section 307(b) standards are applicable must notify the proper authorities in a timely manner, and that other pertinent information called for under section 402(b)(8) is provided. A penalty is provided for failure to provide such notice. This should serve as an additional incentive to avoid incidental discharges. One of the most serious enforcement problems for pretreatment standards are incidental discharges such as spills or intermittent disposal practices. The notice requirement is intended to make the operator of the municipal system aware of such incidents in time to take protective measures.

Proper and timely identification of industrial contributors and the quantity and quality of their wastes is essential to the efficient enforcement of pretreatment standards whether such enforcement be through local, State, or Federal authorities. In the delegation of permits authority to States, it is essential that such States have the necessary authority to require such information from the industries discharging into public systems in the State. This information also is needed by the Administrator where a permit program has not been approved, and by the local authorities for use in the development of local pretreatment programs.

The requirement that States which are assuming the permit programs have the authority to require development of local pretreatment programs also is aimed at assuring that States have the necessary authorities for insuring efficient implementation of pretreatment standards, whether they be standards developed at the local, State, or Federal level.

In addition, the amendments provide that any pretreatment requirements established or adopted through such local programs shall become

an enforceable permit requirement. Such requirements can be enforced directly against the industrial source using the authorities of section 309 or 505 of the act or enforcement action can be taken against the communities for failure to meet its obligation to develop and administer a local program that insures, as a minimum, compliance with Federal pretreatment standards.

Technical and Conforming Amendments

SUMMARY

This section amends section 309, Federal Enforcement, to insure the enforceability of permits issued under section 318 (acquaculture) and section 405 (sewage sludge).

1977 Industrial Deadlines

SUMMARY

This section amends section 309, Federal Enforcement, to provide two new enforcement options for violations of the 1977 best practicable technology for industrial dischargers. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes up to an 18-month extension of the 1977 deadline where the Administrator finds that the discharger acted in good faith; that a serious commitment to achieve compliance had been made; that compliance will occur no later than January 1, 1979; that the extension will not impose additional controls on other sources; that an application for a permit was filed before December 31, 1974; and that the necessary abatement facilities are under construction.

DISCUSSION

Under existing law there are no circumstances that justify a time for compliance extending beyond July 1, 1977. The Administrator can only issue an enforcement order requiring compliance within 30 days or initiate civil or criminal action. Thus, the decision of the U.S. Court of Appeals for the Sixth Circuit in *Republic Steel Corporation* v. *Train* et al and Williams, ——— F. 2d ———, (6th Cir. 1977) was an incorrect interpretation of existing law. This amendment responds to the legitimate concern of dischargers who, despite good faith efforts, will not comply with the 1977 requirements. To accommodate this objective, the committee amended section 309(a) of the act to authorize the Administrator in his discretion, to pursue one of two new options with regard to a discharger out of compliance.

This modification of the provisions of the act with respect to enforcement should eliminate the need for Congress to consider at some later date further case-by-case extensions, waivers, or other relief. The act is specific as to the test the Administrator must make in establishing effluent limitations and guidelines. Appeal mechanisms are established and now, with the addition of a provision that

an enforcement order may be issued which specifies a reasonable time for compliance subsequent to the establishment of the limitation should be sufficient flexibility for those appropriate cases where legitimate issues are appealed in appropriate forums.

The first new option authorizes a "reasonable" time for compliance with a final deadline, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules pursuant to an enforcement order.

The second new option authorizes the Administrator to grant an extension not to exceed 18 months from the 1977 date if the Administrator determines that the violation results from causes outside the control of the discharger. The extension would be available only when the Administrator determines that the discharger acted in good faith; that a serious commitment to achieve compliance had been made by the discharger; that compliance would occur no later than January 1, 1979; that the extension would not result in other sources having to achieve additional controls; that the application for a permit was filed prior to December 31, 1974; and that the necessary facilities for abatement are under construction. If those conditions are met, the Administrator may grant an extension to the earliest possible date for compliance, but no later than January 1, 1979. This is essentially codification of EPA's present enforceemnt compliance schedule letter procedure.

The limited discretion granted to the Administrator by section 309(a)(5)(B) may only be exercised where the Administrator is able to determine that a discharger acted in good faith. The term "good faith" is generally understood to mean a reasonable attempt to comply with the mandates of law. Did the discharger attempt to determine what the applicable requirements were? When the required technology was generally known in the industry, but the discharger had some legitimate disagreements with the Agency on other points, did the discharger begin on an abatement program or conversely did the discharger delay the abatement program pending the outcome of lengthy administrative procedures? When the required technology was the subject of a legitimate dispute with the Agency, did the discharger take all other measures that it was capable of (such as segregating waste streams, necessary site preparation, and outfall construction) or did it delay these practices pending the outcome of lengthy administrative procedures?

A person who wishes an extension must have made a serious commitment of the necessary resources to achieve compliance as soon as possible after July 1, 1977, but no later than January 1, 1979. Here the Administrator must determine whether purchase orders were executed, land cleared, and engineers and construction workers available, or other steps taken to insure that the job can be completed by the new extended date.

The Administrator must also determine that the granted relief to this discharger will not result in additional controls on any other point source or any nonpoint source. This is only reasonable since it would not be fair to penalize other sources for the lateness of somebody else even if that lateness was justifiable. Consequently, when the Administrator finds that additional controls on other dischargers and sources would be required no extension may be granted pursuant to this provision.

Another requirement of this provision is that permits must have been applied for prior to December 31, 1974. If the discharger did not file for a permit by December 31, 1974, this section grants no relief since the discharger should have known that too little time remained from the date of his permit application to the date set out in section 301.

Prior to granting relief the Administrator must determine that the facilities necessary for compliance are now being built. Here the committee intends to make clear that actual construction or activities so closely related to actual construction that compliance no later than January 1, 1979, is a reasonable expectation.

Finally, the committee emphasizes that the Administrator may only grant relief until the earliest time possible for compliance but not later than January 1, 1979. Since we are providing relief for only a small group of dischargers while the great majority of American industry complied with the law on time, it seems highly appropriate that the Administrator require, as a condition of the extension, that the discharger take all reasonable steps to reduce the time needed for compliance.

The committee believes that a case has been made in our hearings on this bill that some relief from penalties must be granted for those sources which have made a good faith attempt to comply with the deadlines in the statute but for justifiable reasons have been unable to do so. The committee considered but rejected the alternative of providing a case-by-case extension of the deadline set out in the statute. That alternative was rejected because the committee felt that such a case-by-case extension would not only burden the administrative process but that it would provide further opportunity for delay for those sources which are otherwise unable to make a legitimate case for additional time. Consequently, decisions by the Administrator pursuant to this new provision of law should not be the subject of administrative hearings and appeals but rather, if the Administrator feels he cannot determine that a source meets the requirements of section 309(a)(5)(B) that he will immediately proceed under any of the other enforcement options set out in section 309. This authorization of limited flexibility granted to the Administrator will maintain the pressure for compliance while at the same time enabling the Administrator to use his discretion to grant any justifiable extension.

Mitigation Costs

SUMMARY

This section amends section 311, Oil and Hazardous Substance Liability, to permit the expenditure of funds from the contingency fund for the purpose of mitigating the effects of a spill of a nonremovable hazardous substance.

DISCUSSION

The bill amends section 311(b) to add a new subsection (v) to paragraph (2)(B) thereof which clarifies the Administrator's authority to act to mitigate damage which may be caused by any discharge, even

though the substance may have been previously determined by the Administrator not to be removable pursuant to subsections (ii)–(iv) of that paragraph. The mitigation may include actual removal of the substance, and the cost of any such efforts shall be deemed a cost incurred under section 311(c), which may in turn be recovered from the discharger under section 311(f), or from a third party responsible for the discharge pursuant to section 311(g).

The effect of this amendment would be to place the financial burden of protecting persons and property from the harmful effects of discharges of hazardous substances upon those who are responsible for the discharges, and to thereby provide an incentive to such dischargers to take every reasonable step to mitigate the effects thereof.

Under the current wording of the statute, while it appears that such costs can be recovered in cases of discharges of substances determined to be nonremovable, the language is somewhat ambiguous, and the purpose of this amendment is to remove any ambiguity by making clear the intention that such costs can be recovered, regardless of whether the substance is determined to be removable or nonremovable. In addition, the amendment would make clear that the section 311(k) revolving fund could be used to pay for the mitigation effort. Such authority is essential to insure prompt action to protect public health and safety, including, for example, protection of drinking water supplies in the event of a discharge of a hazardous substance.

The committee has made a modest clarifying amendment in the hazardous substances provision to make clear that the costs of mitigation of a spill of a designated hazardous substance, whether or not the substance is designated as removable, should be a cost of cleanup for the purposes of the liability section.

The committee has made no other changes with respect to hazardous substances. The Administrator has adequate authority to establish liability limits for spills of hazardous materials and has had 5 years in which to initiate that process.

The committee is concerned that there is an increasing traffic of hazardous materials with potential to pollute the Nation's navigable waters and yet little is being done to establish sufficient levels of liability, either through the process of designation of removable substances which would provide access to cleanup costs or through the liability scheme which attaches a specific level of cost to a specific nonremovable hazardous substance, the effect of which is to discourage handling or hauling of those kinds of materials in an unsafe manner.

The committee expects the Administrator to get on with this task. And the committee expects that because of the number of hazardous materials likely to be designated and the potential for appeals from those designations and the liability to be attached to each, that every effort will be made to combine litigation and appeals from those regulations in the appropriate circuit court. There is no need to further delay this issue while each affected party appeals in each separate circuit court only to have these issues resolved 5 or 6 years from now in the Supreme Court.

Oilspill Liability

SUMMARY

This section amends section 311, Oil and Hazardous Substance Liability, to extend the jurisdiction under this section out to 200 miles; to raise the limits of liability for cleanup of oil or hazardous substance spills from vessels to $150 per gross ton (or for vessels carrying oil as cargo, $500,000, whichever is greater); to raise the limits of liability for cleanup of oil or hazardous substance spills from onshore and offshore facilities to $50 million; to authorize the use of the contingency funds for protection against threatened discharges; to permit immediate recovery of cleanup costs from oil cargo vessels or bulk oil storage or handling facilities in the event of allegations of third-party fault, reserving rights of subrogation; and to permit the recovery of costs expended by the Federal or a State government in restoring or replacing natural resources damaged by an oil or hazardous substance spill.

DISCUSSION

The amendment removes the total dollar ceiling on liability for oilspills from vessels. The ceiling served no useful purpose, inadvertently subsidizing large tankers and thus enhancing their competitive position over smaller vessels. According to testimony, the $150 per ton limit should be adequate for cleanup of all but the most catastrophic spills. The $14 million limit in existing law is totally inadequate to deal with an oilspill of any magnitude from the size of tanker that is expected to be plying the waters of the United States.

The committee also established a maximum liability for small vessels carrying oil as cargo of $150 per gross ton or $500,000, whichever is greater. Again, according to testimony from the Coast Guard (the agency charged with the responsibility for cleaning up oilspills) very often spills from small tankers and other sources are among the most difficult to clean up because they occur in areas where the water is moving and the urgency of the application of cleanup techniques is most pronounced. Additionally, the first cost of any cleanup activity is the most costly. The per ton limit on smaller vessels is not adequate to provide liability commensurate with the costs of cleanup which have been experienced with such spills.

The committee was particularly concerned with the soundness of the contingency fund. As a result of the 1970 act, $35 million was appropriated to that fund. Most of that has now been depleted. While there are over $26 million in pending claims and while liability payments and penalties have been returned to the fund, depletion has resulted from cleanup from unknown sources, cleanup where costs exceeded liability, and cleanup of spills where a defense to liability was raised. The new minimum liability for smaller oil tankers and the removal of the upper limit should make the fund more sound.

In addition, the committee has adopted a provision which assures that the Government can pursue the insurer or the spiller to recover cleanup costs without awaiting final disposition of all third-party damage claims. This provision was adopted as a result of discussions with the Justice Department which indicated that the greatest limit

on speedy cleanup cost recovery was the joining of cleanup liability suits with third-party negligence actions. This will no longer be the case.

The committee has extended the jurisdiction of section 311 out to the 200-mile limit of the fisheries management zone. The many recent incidents of tanker spills, especially the disaster caused by the *Argo Merchant* off the coast of New England, underscore the immediate need for improved protection from and jurisdiction over marine pollution. The absence of clear legal authority to deal with oilspills beyond the territorial seas is indefensible.

The committee had hoped that one of the products of the Law of the Seas Conference would have been an adequate regime to regulate potential oil pollution from vessels and fixed facilities in the 200-mile zone, both for the purpose of protecting domestic coastal properties and, more importantly, for the purpose of protecting vital fishery resources. Legislation was introduced to extend the jurisdiction of U.S. liability statutes and cleanup authority to match the jurisdiction of the Outer Continental Shelf—200-mile limit. These bills were not pursued during the pendency of the Law of the Seas negotiations. Those negotiations have deadlocked and the United States can no longer afford to have environmental and fishery resources unprotected. Our capacity to act to clean up oilspills and recover costs, regardless of their location, so long as they potentially adversely affect the interests of the United States, must be assured and this legislation attempts to do that.

The committee considered amendments to section 311 to establish liability for damages occurring outside the jurisdiction of any State as a result fo an oilspill, including compensation for income loss due to damages to property or natural resources. A related amendment creating a new compensation fund covering claims for damages above the spiller's limits of liability and funded by a 3-cent-per-barrel throughput fee on oil not already subject to the fees associated with the existing compensation funds, was also considered. The committee deferred action on these proposals and will consider them as part of the comprehensive oilspill liability legislation. In that context, the provision of liability for damages and a compensation fund which does not preempt State liability requirement would be appropriate.

Marine Sanitation Devices

SUMMARY

This section amends section 312 to (1) require the EPA Administrator to prohibit the discharge of treated sewage from vessels in drinking water intake zones, upon an application of a State and (2) to require the Administrator to amend current marine sanitation device regulations for commercial vessels on the Great Lakes and navigable waters other than coastal waters to require said devices, within a time period to be determined by the Administrator, to produce an effluent, at a minimum, of a quality of secondary treatment; and that such vessels be required to treat greywater also.

DISCUSSION

In 1972, the act was amended to preempt State authority to regulate marine sanitation devices because of the variety of State and local requirements. In January 1975, after lengthy consideration, the Coast Guard promulgated regulations pursuant to section 312 that permitted "flowthrough" devices, and in January 1976, EPA amended its regulations to allow the discharge of vessel wastes in coastal waters, the Great Lakes, and on navigable interstate waters, while retaining a no-discharge requirement on landlocked bodies of water. The EPA and Coast Guard justified these regulations because of the cost of retrofitting existing vessels and the inadequate number of holding tank pumpout facilities, particularly for commercial vessels engaged in interstate and foreign commerce. However, many of these devices, particularly for large volume commercial vessels, do not meet the secondary treatment requirements of onshore treatment works.

This bill also clarifies a provision in the statute which allows a State to apply for a complete prohibition of discharges from vessels where the protection and enhancement of the quality of specified waters requires such prohibition. It is apparent to the committee from testimony received from the field hearings that States, particularly in the Great Lakes region, are not satisfied with EPA implementation of this section since the 1972 act. All but one petition filed pursuant to section 312(f) (3) and (4) which permits the Administrator to declare no-discharge zones, have been denied by the EPA because of the lack of pumpout facilities.

This section amends section 312 of the act in two instances. First, the Administrator, upon application of a State under section 312(f), is required to prohibit the discharge of any vessel wastes, regardless of the level of treatment, in drinking water intake zones. The committee believes that drinking water supplies in port areas should be protected from any discharges from vessels. Flowthrough treatment devices have the capability to hold their effluent for a period of time while in port and the committee amendment directs the Administrator to so require, if a State so requests, even if the EPA does not require no-discharge and the use of holding tanks.

Second, the amendment requires that any EPA or Coast Guard regulations that apply to commercial vessels on the Great Lakes or interstate waters, produce an effluent of a secondary treatment quality, at a minimum. Current regulations do not require secondary treatment and the committee believes that if a no-discharge requirement is not imposed for these vessels, at the least their discharges of vessels wastes should be the quality required onshore for the treatment of sewage. The Administrator is given the same discretion as in the present statute as to the effective date of any new regulations. The committee also determined that commercial vessels on the Great Lakes should route greywater discharges through the same device that treats sewage and acted to so amend the definition of "vessel wastes" in those instances.

The committee specifically excludes recreational vessels from the latter requirement for secondary treatment of its wastes. The committee recognizes that since the 1972 act, thousands of recreational vessels have been constructed or retrofitted to comply with the EPA and

Coast Guard regulations. The manufacturers and owners of those vessels acted in good faith to build or renovate their vessels to comply with Federal regulations. Furthermore, the record demonstrates that the most significant problem with current Federal regulation of marine sanitation devices involves commercial vessels on the Great Lakes.

The committee recognizes that the lack of availability of pump-out facilities to date in certain areas has, in part, prompted the current Federal regulations that have permitted "flowthrough" devices and has been the rationale for EPA denial of no-discharge petitions filed under section 312(f)(3). Thus, to encourage the designation of no-discharge areas where necessary to protect water supplies and recreation values, the amendment makes municipally owned and operated pumpout and treatment facilities eligible as treatment works under the construction grant program. Furthermore, EPA is directed to encourage States to place on their priority lists projects to construct facilities to service vessels that do have holding tanks, even where flowthrough devices are permitted. This would give a vessel owner the option of selecting a flowthrough device, or a holding tank where he deemed that a less costly alternative.

Federal Facility Compliance

SUMMARY

This section clarifies section 313 to provide that all Federal facilities must comply with all substantive and procedural requirements of Federal, State, or local water pollution control laws. It also eliminates the exception for Federal agencies from the State certification of activities under section 401.

This section also amends section 404 to insure that the dredge and fill activities of the U.S. Army Corps of Engineers are carried out in compliance with State, local, or interstate substantive or procedural requirements.

DISCUSSION

The act has been amended to indicate unequivocally that all Federal facilities and activities are subject to all of the provisions of State and local pollution laws. Though this was the intent of the Congress in passing the 1972 Federal Water Pollution Control Act Amendments, the Supreme Court, encouraged by Federal agencies, has misconstrued the original intent.

Since the substantive requirements of the act and of State and local law would be unenforceable unless procedural provisions were also met section 313 is amended to specify that, as in the case of air pollution, a Federal facility is subject to any Federal, State, and local requirement respecting the control or abatement of water pollution, both substantive and procedural, to the same extent as any person is subject to these requirements. This includes, but is not limited to, requirements to obtain operating and construction permits, reporting and monitoring requirements, any provisions for injunctive relief and such sanctions imposed by a court to enforce such relief, and the payment of reasonable service charges. The provisions of section 313 granting the President authority to exempt a Federal facility from compliance with

local, State, or Federal requirements where specific conditions are met are not altered by this amendment.

The amendment to section 404 clarifies the intent of Congress relative to the dredging activities of the U.S. Army Corps of Engineers. To maintain navigation on the Nation's waterways is in the national interest. However, corps dredging activities, like any municipal or industrial discharge to the Nation's waters, or any private dredging activities, should be conducted in compliance with applicable State water quality standards. The corps, like other Federal agencies, should be bound by the same requirements as any other discharger into public waters.

The amendment is prompted by varying legal interpretations of the applicability of sections 313 and 404 to dredging activities. In 1975, the U.S. District Court in Minnesota granted summary judgment in favor of the Minnesota Pollution Control Agency, holding that section 313 and legislative history of the 1972 act required the Corps of Engineers to comply with State water quality standards in dredging activities carried out in the State of Minnesota, especially the Minnesota and Mississippi Rivers and in the Duluth-Superior Harbor of Lake Superior. *Minnesota* v. *Callaway*, 401 F. Supps. 524 (D.C. Minn. 1975). This judgment was reversed in 1976 by the Eighth Circuit Court of Appeals, which found that the legislative history of the 1972 act conveyed an intent on the part of Congress to exempt the Corps of Engineers, operating under section 404, from State environmental law despite the language of section 313. *Minnesota* v. *Hoffman*, 543 F. 2d 1198 (9th Cir. 1976). The State of Minnesota, joined by the States of California, Hawaii, Idaho, Washington, Wisconsin, and Missouri and the Sierra Club and the Izaak Walton League, appealed to the Supreme Court. The Supreme Court did not grant review of the case (9 ERC 2073, 45 U.S.C.W. 3706, 1977).

By this amendment, the committee clarifies that corps dredging activities are not exempt from State pollution abatement requirements. In spite of language on section 313 in the Senate report on the 1972 act, that "* * * requires every Federal agency with control over any activity or real property, to provide national leadership in the control of water pollution in such operations.", the Supreme Court ruling in the *Minnesota* case would otherwise free corps-conducted dredging from compliance with State water quality standards. The intention of the 1972 act was not to exempt the corps or any other public or private agency from State water quality standards and the interpretation of section 404 by the courts is at variance with the intent of Congress. In fact, Congress intended that section 404 in the 1972 act would in its initial implementation end the open water disposal of dredge spoil. Quite the contrary has been the case.

Several corps district offices to date have requested and received funds to provide on land or confined disposal of dredge spoil. Pursuant to this amendment, the corps may be required by the States in some instances to expend additional funds to protect water quality. The committee supports funds for this purpose. It is the responsibility of the Secretary of the Army to seek such funds from the Congress, with the support of the Environmental Protection Agency.

This amendment to section 404 is neither intended nor expected to result in compromising the ability of the corps to maintain naviga-

tion. The States that have taken administrative and judicial action to seek corps compliance with water quality standards have a comparable interest in the movement of commerce on waterways maintained by corps dredging. The committee expects that such States will act both to insure compliance with water quality standards and continued corps dredging activities.

CLEAN LAKES

SUMMARY

This section amends section 314 by requiring the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biannually information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is further amended to authorize $450 million for fiscal years 1978, 1979, and 1980 for the ocean lakes program.

DISCUSSION

The 1972 act recognized the urgent need for a lake improvement program to restore the significant number of the Nation's 95,000 freshwater lakes that were in eutrophic and deteriorated conditions. The clean lakes program was conceived to respond to this problem: $100 million was authorized for lake pollution research; $300 million for grants for restoration and improvement projects on lakes throughout the country.

In the 5 years since Public Law 92–500 went into effect, lake restoration programs essentially have not even begun. Only 15 percent of the 95,000 freshwater lakes of this country have been investigated pursuant to section 314. The EPA has not requested any of the research funds authorized for lake pollution. Previous administrations never once requested funds for the clean lakes program. Only $40.3 million has been appropriated since fiscal year 1975. Even of those inadequate funds appropriated through fiscal year 1977, the EPA has allocated only $19 million. With tens of thousands of lakes warranting the use of clean lakes project grants, the EPA has only funded 54 projects to date.

The committee hearing record clearly demonstrates that there is a great interest in lake areas in the restoration and preservation of degraded freshwater lakes, that the clean lakes grants that have been made have had some impact and that additional research and demonstration efforts are necessary so to successfully implement clean lakes projects, especially in urban areas.

The committee believes that the basic structure of 314 is adequate. The amendments are technical in nature and intended to correct two inadequacies of the program. First, the Administrator is directed to provide the States with financial assistance to survey lakes to determine their condition. The lake surveys are the first step to a successful lake restoration program. Pursuant to this amendment and funds available therefrom to the States, all States should have the capability to initiate lake surveys to determine the priority lakes for restoration projects.

Second, the Administrator is directed to biannually issue to the States information on the state of the art of lake restoration tech-

niques and practices. The committee believes publication of this material is necessary on a regular basis and this amendment so provides.

The provision authorizes $450 million for the clean lakes program for fiscal years 1978–80. The committee believes this authorization represents a level of effort that reflects the expectations of the Congress for this program, recognizing that the problem of lake eutrophication and deterioration nationwide far exceeds even this authorization level.

The committee is hopeful that the new administration will act to make lake restoration a key element of the EPA's water pollution control program contrary to the EPA's implementation of this section to date.

Finally, the committee intends in subsequent legislation to be reported to the Senate to provide additional authorizations for lake pollution research.

Aquaculture

SUMMARY

This section amends section 318, Aquaculture, to assure that permits issued under this section are consistent with section 402.

DISCUSSION

This section amends section 318 of the Federal Water Pollution Control Act by authorizing a State to administer a permit program for aquaculture projects. A State wishing to administer such a program would be able to obtain the necessary approval from the Administrator and to issue permits accordingly. Such permits would be issued under section 402 of the act and subject to all of the same criteria, factors, procedures, and requirements of such section.

Noncompliance Fee

SUMMARY

This section amends title III of the act by adding a new section 319. Any point source (other than a publicly owned treatment works) not in compliance with the effluent limitations and compliance date in its permit, shall be required to pay a fee equivalent to the economic value of noncompliance. The payment shall be imposed automatically for sources out of compliance with the 1977 requirements or applicable new source, toxic of thermal limitations beginning on July 1, 1979, and for sources out of compliance with the 1983 requirements beginning on January 1, 1984.

DISCUSSION

The committee is concerned that the small number of industrial dischargers that failed to comply with the 1977 deadline may receive a substantial financial benefit over their competitors who did comply on time. Most of American industry complied with the mandates set out in this Act (approximately 90 percent of major industrial dischargers complied with the 1977 deadline). It is unfair to allow those

dischargers who did not comply or will not comply with requirements in the future to reap the rewards of noncompliance with the act.

To correct this inequity, the bill adds a new section 319 to the Federal Water Pollution Control Act that will impose noncompliance fees upon dischargers that fail to comply with the requirements of thi law. This provision authorizes the Administrator or the State to assess noncompliance fees equal to the economic value of noncompliance for failure to comply on time with the requirements of this act. At any time after July 1, 1979, where an industrial discharger does not comply on time with any provision of this act the fee under this section is automatically imposed.

When the Administrator or the State determines that a violation of a permit has occurred, certain data is required from the discharger. This data (or where this data is manifestly inaccurate in the opinion of the State or the Administrator, other data determined from other relevant sources within the industry or by contract) would be used to determine a noncompliance fee. The Administrator or the State would determine the economic value that accrued to the discharger because of its failure to comply with the requirements of the law. Factors to be included in this determination would include total cost of the project, the cost of capital, and the cost of operation and maintenance activities that would have been performed plus any other factors relevant to the economic value of noncompliance as the guidelines published by the Administrator may include.

This estimated economic value would be translated into an equivalent monthly or quarterly fee that would be payable to the Administrator or the State. When the discharger has come into compliance and the actual costs are known, the fee would be recalculated and any excess amount returned to the discharger. Where sufficient fees were not paid, additional amounts would be collected. This fee is automatic. It is not to be used for long administrative proceedings. Judicial appeals on the amount of the fee collected shall not be allowed to stay collection of the fee. Errors in the determination of the fee are to be corrected using the recalculation procedure that will come into effect following the dischargers return to compliance. The purpose of the noncompliance fee is to correct inequities that may exist between competitors and to take the economic benefit out of noncompliance. Good faith or bad faith should not enter into the calculation of noncompliance fees. Whenever a source is out of compliance after July 1, 1979, the fee will come into effect. Although, ideally, the noncompliance fee would be made operative on July 1, 1977, the committee recognized that certain dischargers were unable to comply with the 1977 deadline for valid reasons beyond their control. Section 309(a)(5) authorizes the Administrator under certain limited circumstances to extend for a maximum of 18 months the statutory date for compliance. Therefore, the noncompliance fee provision is effective on July 1, 1979. This 2-year period will allow the Administrator to gain experience in fee assessment procedures with a small number of dischargers affected. The noncompliance fee for the 1983 deadline will become effective 6 months after the statutory date in 1983. This 6-month period will avoid collection of small fees from people in noncompliance for only a very short period of time.

Rather than determining the size of the fee based upon specific data related to the source in noncompliance, the Administrator may choose to base the fee upon industrywide costs. This will enable the Administrator to avoid collecting large amounts of data for each individual discharger in noncompliance. Of course, any individual source has the right to make a showing that his cost structure is unique.

In the event an owner or operator contests the noncompliance fee established under this section, he may seek review of such penalty in the appropriate United States district court. Upon review, the action of the Administrator or the State shall be affirmed, unless the court finds that such action is arbitrary, capricious or otherwise not in accordance with this section on the Administrator's guidelines.

Civil and criminal remedies for noncompliance that exist under the act are in addition to the payment of a noncompliance fee. Since there may be some dischargers that will continue to pay the fee and still remain out of compliance, civil and criminal relief must therefore remain available to the Administrator in those cases.

In the Senate-passed Clean Air Act Amendments, the committee recommended a provision which required assessment of delayed compliance penalties for major emitting facilities. The Clean Air Act provision was mandatory. Any source out of compliance by a specific date would be required to pay a delayed compliance penalty. The provision in this bill is mandatory. It does not make a distinction between major emitting facilities and minor emitting facilities. However, the committee expects the Administrator to use his resources to pursue first those facilities which are defined in the effluent guidelines as major sources of effluent, in order that the maximum degree of effluent reduction can be achieved with a minimum commitment of limited national resources.

Compliance With State Requirements

SUMMARY

The bill amends section 401 to add section 303 to the list of the act's provisions for which a State must certify compliance before a Federal license or permit can be issued. This means that a federally licensed or permitted activity, including a discharge permit under section 402, must be certified to comply with State water quality standards adopted under section 303.

DISCUSSION

Existing law requires that States certify that discharges resulting from activities for which an applicant has applied for a Federal license or permit will be in compliance with the provisions of the act. Currently the list of provisions for which certification is necessary does not include section 303 of the act. The Congress intended in 1972 that State water quality standards would be imposed through section 301, and thus certification by the State would include consideration of water quality standards. The failure to explicitly include reference

to section 303 has led to confusion, however, as to whether certification of compliance with water quality standards was required. This amendment follows the original congressional intent and clarifies that.

Section 303 was intended to be part of the control mechanism available to the States for protection of State water quality. At this time, few States have completed the water quality plans contemplated by the provision, though all States have a planning process. And all States have approved water quality standards. Thus, it is reasonable to require that Federal permits and licenses should take into account State water quality plans, standards and requirements adopted under section 303 to assure maintenance of water quality in the respective States.

EPA Issuance of Permits

SUMMARY

This section amends section 402, National Pollutant Discharge Elimination System, to authorize the Administrator to issue a permit where a State-issued permit is inadequate.

DISCUSSION

This amendment is necessary in order to avoid the impasse which may now result when the Administrator objects to the issuance of a permit which is contrary to the provisions of the act and the State is unwilling to issue a permit to the point source which is consistent with the provisions of the act. Under the present act, neither EPA nor the State may issue a valid permit in these circumstances.

Furthermore, the Agency has an obligation to assure that penalties received for violation of the requirements of the act are uniform and are calculated with concern for equal treatment for similarly situated dischargers. Equal treatment should apply not only where EPA is administering the permit system but also where an approved State is administering such system. This act supplied EPA with the authority not only to veto (both before and after effluent guidelines are promulgated) specific permits that were drafted by a permitting State, and to take specific enforcement actions where State enforcement actions were not sufficient, but also to withdraw programs in States where widespread violations of the applicable regulations are occurring within a State.

EPA has been much too hesitant to take any actions where States have approved permit programs. The result might well be the creation of "pollution havens" in some of those States which have approved permit programs. This result is exactly what the 1972 amendments were designed to avoid. Lack of a strong EPA oversight of State programs is neither fair to industry nor to States that are vigorously pursuing the act's requirements. The committee is concerned that the Agency is not conducting a vigorous overview of State programs to assure uniformity and consistency of permit requirements and of the enforcement of violations of permit conditions.

Enforcement of Municipal Permits

SUMMARY

This section amends section 402, National Pollutant Discharge Elimination Study, to permit the EPA to enforce against a violation of a municipal permit.

DISCUSSION

The amendment brings publicly owned treatment works, located in States without approved permit programs, within the same enforcement process applicable to all dischargers. Under section 402(h) as currently enacted, publicly owned treatment works that violate conditions of their permits can be subject to a court ordered injunction prohibiting further introductions of pollutants into the treatment works. This provision now only applies to treatment works located in States with approved permit programs. This amendment would allow the Administrator to request a court to order a similar injunction where a treatment works is located in a State without an approved permit program or if he finds that a State with an approved permit program has not taken appropriate enforcement action.

Dredge and Fill Permit Program

SUMMARY

The committee amendment modifies the existing program for controlling the disposal of dredged and fill material. The bill amends section 402 to provide a mechanism for approving permit programs of States for controlling disposal of dredge and fill material which meet their particular needs. Section 404 of the act is amended to provide specific exemptions from any permit requirement for certain activities. The amendment also provides for the use of general permits as a mechanism for eliminating the delays and administrative burdens associated with this program.

A third provision amends section 208(b)(4) to provide that the placement of fill material associated with activities which a State chooses to regulate by requiring best management practices under that section, is also exempt from any permit requirement under section 404 or 402.

The national wetland inventory is required to be completed by December 31, 1978, and $6 million is authorized for that purpose.

DISCUSSION

Section 404 of the Federal Water Pollution Control Act Amendments of 1972 required a permit program to control the adverse effects caused by point source discharges of dredged or fill material into the navigable waters including: (1) the destruction and degradation of aquatic resources that results from replacing water with dredged material or fill material; and (2) the contamination of water resources with dredged or fill material that contains toxic substances.

The committee amendment is designed to reaffirm this intent and dispel the widespread fears that the program is regulating activities that were not intended to be regulated.

Issues raised concerning the section 404 program may be divided into four categories:

1. Jurisdiction: the role of the Federal Government in regulation of waters beyond those that support navigation;
2. Activities exempt from the section 404 permit program: certain activities that do not involve point source discharges and those activities that are more appropriately dealt with under section 208 management practices and performance standards;
3. State programs: the manner in which the States will be authorized to administer the program; and
4. Unnecessary regulation and redtape: the use of general permits and time constraints on Federal review to eliminate unnecessary paperwork and delays in permit processing.

Section 404 jurisdiction

Initial consideration of the section 404 controversy stimulated discussion on the extent of the waters in which discharges of dredged or fill material will be regulated.

The 1972 Federal Water Pollution Control Act exercised comprehensive jurisdiction over the Nation's waters to control pollution to the fullest constitutional extent. In its report on that legislation, the Senate Public Works Committee stated "waters move in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source."

The objective of the 1972 act is to protect the physical, chemical, and biological integrity of the Nation's waters. Restriction of jurisdiction to those relatively few waterways that are used or are susceptible to use for navigation would render this purpose impossible to achieve. Discharges of dredged or fill material into lakes and tributaries of these waters can physically disrupt the chemical and biological integrity of the Nation's waters and adversely affect their quality. The presence of toxic pollutants in these materials compounds this pollution problem and further dictates that the adverse effects of such materials must be addressed where the material is first discharged into the Nation's waters. To limit the jurisdiction of the Federal Water Pollution Control Act with reference to discharges of the pollutants of dredged or fill material would cripple efforts to achieve the act's objectives.

The committee amendment does not redefine navigable waters. Instead, the committee amendment intends to assure continued protection of all the Nation's waters, but allows States to assume the primary responsibility for protecting those lakes, rivers, streams, swamps, marshes, and other portions of the navigable waters outside the corps program in the so-called phase I waters. Under the committee amendment, the corps will continue to administer the section 404 permit program in all navigable waters for a discharge of dredge or fill material until the approval of a State program for phase 2 and 3 waters.

Activities exempt from permits

Testimony received concerning the types of activities that are subject to section 404 permits revealed two basic problems: confusion over

whether permits are required for certain "gray area" types of activities, and the inappropriate use of the permit mechanism for regulating certain discharges of dredged or fill material.

The committee amendment addresses those concerns. The amendment clearly assigns responsibility to the section 208 program for earth-moving activities that do not involve discharge of dredged or fill material into navigable waters. Thus, no permits are required for seeding, cultivating, and harvesting, or for upland construction of soil and water conservation measures, or certain minor drainage; including sediment basins and terraces to prevent pollutants from entering the Nation's waters. These exemptions must be defined in regulations. Minor drainage is intended to deal with situations such as drainage in Northwestern forests or other upland areas. The exemption for minor drainage does not apply to the drainage of swampland or other wetlands.

Similarly, no permits are required for other such "gray area" practices involving those agriculture, mining and construction activities listed in section 208(b)(2) (F) through (I) that more are properly controlled by State and local agencies under section 208(b)(4) and for which there are approved best management practice programs. For example, section 208(b)(4) regulatory programs are responsible for controlling pollution that may result from sheet flow across a site prepared for construction or from the placement of pilings in water to support structures such as highways, railroad tracks, and docking facilities. Under the committee amendment, no permits are required for such activities when regulated under section 208.

The committee amendment also addresses the recognition that certain activities that involve the addition of dredged or fill material into water can meet the objectives of the act if conducted in accordance with performance standards and best management practices established under the section 208 program, and thus do not require the detailed scrutiny of a Federal permit program.

The amendment exempts from permit requirements the maintenance and emergency reconstruction of existing fills such as highways, bridge abutments, dikes, dams, levees, and other currently serviceable structures. This does not include maintenance that changes the character, scope, or size of the original fill. Emergency reconstruction must occur within a reasonable period of time after destruction of the previously serviceable structure to qualify for this exemption.

The committee amendment specifically exempts construction or maintenance of farm or stock ponds, as well as construction and maintenance of agricultural irrigation ditches and the maintenance of drainage ditches, from the permit requirements.

The construction of farm and forest roads is exempted from section 404 permits. The committee feels that permit issuances for such activities would delay and interfere with timely construction of access for cultivation and harvesting of crops and trees with no countervailing environmental benefit. The prescribed management practices for construction of exempt roads require that the construction, use, and maintenance of the roads not significantly alter the biological character or flow, reach, and circulation of affected waters.

During the committee oversight of the corps program last year, testimony was received regarding potential disruptions of mining

operations due to delays resulting from permit review of routine filling activities. The committee amendment exempts the construction of temporary mining roads for the movement of equipment from permits. These roads must not only be designed and constructed in accord with the prescribed requirements for protection of the navigable waters applicable to roads; they must be removed in a manner consistent with those requirements.

These specified activities should have no serious adverse impact on water quality if performed in a manner that will not impair the flow and circulation patterns and the chemical and biological characteristics of the affected waterbody, and that will not reduce the reach of the affected waterbody.

All exempt activities will be required to have permits if the activity introduces toxic materials into the navigable waters. For this purpose, toxic materials shall include those substances for which, because of their harmful properties, EPA is developing standards and guidelines pursuant to sections 301, 304, 307, and 404 because of their harmful properties.

The bill specifically requires the Administrator to include in guidelines methods for identification and testing of toxic pollutants so as to minimize the possibility that de minimus contamination with trace amounts of toxics will not expose an exempt placement or activity to the need for a permit.

The committee amendment continues the requirement that a permit must be obtained under section 402(l) or section 404 to minimize or prevent adverse effects caused by altering the flow or the reach of the navigable waters from direct discharges of dredged or fill material. For example, permit review is necessary for placement of fill to convert a hardwood swamp to another use through construction of dikes or drainage channels.

The term "normal silviculture activities" as used in this provision does not include, for eastern mixed hardwood forests, clearcutting of timber or harvesting associated with even-aged management of timber and the placement of fill material or the discharge of sediment into the navigable waters resulting from such practices shall be subject to the permit requirement of the act.

State programs

Testimony received established that the permit review process is appropriate for regulating discharges of dredged or fill material. During the last 2 years the section 404 permit review process resulted in the modification of more than 3,500 projects to protect the aquatic environment.

The committee amendment is in accord with the stated policy of Public Law 92–500 of "preserving and protecting the primary responsibilities and rights of States or prevent, reduce, and eliminate pollution." It provides for assumption of the permit authority by States with approved programs for control of discharges for dredged and fill material in accord with the criteria and with guidelines comparable to those contained in 402(b) and 404(b)(1).

By using the established mechanism in section 402 of Public Law 92–500, the committee anticipates the authorization of State management of the permit program will be substantially expedited. At least 28 State entities which have already obtained approval of the national

pollutant discharge elimination system under the section should be able to assume the program quickly.

The use of this mechanism will also expedite State authorization because the Administrator only has to amend guidelines under section 304(h)(2) of the act to establish the procedures and other requirements that a State must meet to achieve approval of its program.

Under the amendment, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a National Pollutant Discharge Elimination System program. This will prevent any delay in processing applications for the National Pollutant Discharge Elimination System.

The amendment also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program. Several States have already established separate State agencies to control discharges of dredge or fill materials. These agencies need not be the same as the National Pollutant Discharge Elimination System agency. The committee expects the Administrator to insist that any designation of a non-National Pollutant Discharge Elimination System agency be accompanied by a demonstration of full capability to adequately administer this program.

The amendment encourages the use of a variety of existing or developing State and local management agencies and recognizes mapping, protective orders, standards of performance and the like as useful management tools. It is anticipated that State and local government will coordinate and integrate the permit program for discharges or dredged or fill material with the section 208(b)(4) program for regulating pollution from nonpoint sources and from the placement of materials where such placement results from activities that are explicitly exempted from obtaining section 404 permits.

Although discretion is granted to establish separate administration for a State permit program, the authority of the Administrator to assure compliance with guidelines in the issuance and enforcement of permits and in the specification of disposal sites which is provided in sections 402 (c) through (k) and 404(c) is in no way diminished.

The authority for control of discharges of dredged or fill material granted to a State through the approval of a program pertains solely to the environmental concerns reflected in the specific guidelines set forth in the amendment, and the responsibility of the Corps of Engineers under the Rivers and Harbors Act of 1899, as specified under section 511 of the act, is not affected or altered by this amendment.

The Administrator shall consult with the Secretary of the Army and the Director of the Fish and Wildlife Service prior to his approval of a State permit program for control of discharges of dredge and fill material (sec. 402(1)(2)). The committee amendments relating to the Fish and Wildlife Service are designed to (1) recognize the particular expertise of that agency and the relationship between its goals for fish and wildlife protection and the goals of the Water Act, and (2) encourage the exercise of its capabilities in the early stages of planning. By soliciting the views of the principal Federal agencies involved in the review of these programs at an early stage, objections can be resolved that might otherwise surface later and impede the operation of a State program approved by the Administrator. This consultation preserves the Administrator's discretion in addressing

the concerns of these agencies, yet affords them reasonable and early participation which can both strengthen the State program and avoid delays in implementation. That is, early participation in the development and design of programs, guidelines, and regulations should serve to reduce the emphasis now placed on the review by the Fish and Wildlife Service of individual applications for permits under the Water Act.

The committee expects that this consultation process be carried out in an expeditious manner and that it will not be used to delay approval of acceptable State programs. These additional requirements will add to present demands on the Service and it is expected that the Secretary of the Interior will take appropriate action to insure availability of resources to get this job done. The Fish and Wildlife Service does not have any right to veto the approval of a State program.

The committee has added a requirement for a consultation process with the State agency having primary jurisdiction over fish and wildlife resources in developing the 208 regulatory program. This amendment is needed because many State water pollution control agencies with jurisdiction over section 208 activities may be not cognizant of important fish and wildlife values and the water quality conditions necessary to maintain those values. The amendment would help assure that the insights and concerns of the State fish and wildlife agency are reflected in the design and implementation of programs. Their participation will also decrease the probabilities of delays based on environmental challenges to the issuance of individual permits or other regulatory actions taken under section 208.

In this regard the committee has also included an amendment to section 208 which would authorize and direct the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, to consult with and provide technical assistance to any State or designated agency in developing and operating a continuing planning process (sec. 208(j)(1)). Early involvement of the Service in the 208 planning process will assure proper consideration of the ecological goals of the act will minimize the potential for objections in the implementation phase.

The committee added a requirement for a coordination process with the Fish and Wildlife Service, including a process for use of the National Wetland Inventory being conducted by that agency, as part of the State's regulatory program under section 208(b)(4). The Service is a primary source of ecological information in the Federal establishment and has stewardship responsibilities for fish and wildlife resources. The basic reason for this coordination process and the consultation with State fish and wildlife agencies mandated elsewhere in the amendments is to assure that the ecological goals of the Water Act are adequately addressed.

The National Wetland Inventory is developing information about the extent and distribution of wetlands types that will be invaluable in the decisionmaking process under statewide 208 regulatory programs. The inventory identifies the boundaries of wetlands and defines different vegetational areas within the wetlands. This information, coupled with a knowledge of species commonly associated with these types, as well as such other natural values as their contributions to water quality through filtering action, maintenance of water tables, amelioration of drought and flooding conditions, and the like, will aid decisionmakers in determining less sensitive areas. By using the

Nationwide Inventory the Committee believes that more informed choices can be made, more promptly, among alternative plans and proposals.

The committee is aware that the implementation of this program under the 208 process may require significantly more of State and local 208 agencies than at present.

It is the committee's intent that the Administrator seriously scrutinize any 208 proposal, and review periodically any such approved program to assure that the program represents a realistic way to achieve the goals of the act.

The committee has included an authorization of $6 million to the Secretary of the Interior to complete the initial phase of the National Wetland Inventory by December 31, 1978. The inventory identifies the ecological attributes of wetlands with regard to vegetational types. It will provide valuable information which can be used in the 208 planning process as well as other coastal planning activities under the Coastal Zone Management Act.

Unnecessary regulation and redtape

The committee amendment authorizes the use of general permits by the corps and States which approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environment impact.

The corps during the last 2 years of administering the section 404 program has issued general permits on a regional and nationwide basis to eliminate the need for individual permits for a number of activities involving the discharge of dredged or fill material. These include streambank protection, stream alteration, backfill for bridges, erosion control, and, in at least one instance, a general permit for road fill and culverting on a statewide basis. For general construction activities, general permits issued on a statewide or regionwide basis will greatly reduce administrative paperwork and delay.

The committee amendment also responds to concerns that were expressed during testimony over delays in permit processing by the corps including those caused by other Federal programs which interface with the corps' section 404 program. The amendment requires the corps to issue a public notice within 15 days of receipt of all required information necessary to evaluate a section 404 permit application. It also requires the Secretary of the Army to enter into memoranda of understanding with other Federal agencies to coordinate their respective reviews in order that a decision can be reached in most cases within 75 days of the public notice. This would apply to pending applications, as well as future ones. In some cases, this would require revisions to existing memoranda of understanding, including the one that now exists between the Secretaries of the Army and the Interior to implement the Fish and Wildlife Coordination Act.

Sludge Disposal

SUMMARY

This section amends section 405, Disposal of Sewage Sludge, to assure that permits issued under this section are consistent with section 402.

DISCUSSION

This amendment is necessary to clarify that any permit for the discharge of sewage sludge is to be issued pursuant to section 402 and subject to all the same criteria, factors, procedures, and requirements of such section.

Under current law, section 405 would seem to set up a separate permit program under section 405 for discharge of sewage sludge when the Administrator has all the authority he needs to issue permits for the discharge of any pollutants, including sewage sludge, under section 402.

Combined Sewer Overflows

SUMMARY

This section requires the Administrator to prepare and submit a study on the problems of combined sewer overflows by October 1, 1978.

DISCUSSION

The committee is concerned that while the second largest category of municipal treatment needs identified in the 1976 national needs list is the correction of combined sewer overflows, only 5 percent of the currently available Federal funds to correct this problem have been obligated. Where municipal sanitary and storm sewer systems are combined, as is the case in many municipalities, significant bypasses of raw sewage occur during periods of rainfall or snowmelt. The water quality impacts of these discharges can be severe. Examples brought to the committee's attention showed combined sewer overflow problems to be a significant source of untreated sewage to the Nation's waters. Yet few dollars have been allocated to correct combined sewer overflow problems. The committee directs the Administrator to report to the Congress on several aspects of the combined sewer overflow problems facing communities.

Of particular concern to the committee is whether a separate program should be authorized to deal with combined sewer overflows.

In addition, new technologies for addressing this problem have been brought to the committee's attention such as storage in catchment basins within existing systems, capturing only the "first flush", and centrifugal interceptors. The report should include an identification and discussion of these systems especially where their deployment would result in cost savings compared with conventional systems.

Utilization of Treated Sludge

SUMMARY

This section requires the Administrator to prepare and submit a study by October 1, 1978, on the current and potential utilization of municipal waste water and sludge for productive purposes.

DISCUSSION

The hearings of the committee demonstrated that little municipal waste water or sludge from treatment works now in operation or

under construction is being utilized for productive purposes by treatment works now in operation or under construction. The committee is concerned that while technologies exist for the land treatment of waste water and the utilization of sludge for agricultural and other purposes, that the large majority of municipal treatment works continue to discharge treated waste water to a receiving water and landfill or incinerate sludge. The water content and nutrient value of the waste water and sludge products of the treatment of municipal sewage are, in the judgment of the committee, resources to be used, not merely discarded, consuming either land or energy in the disposal process.

The EPA reported to the committee that only 13 percent of the treatment works under construction with funds provided by the Federal Government utilize the land treatment of waste water and only 4 percent utilize some type of sludge processing technique.

This study requires the Administrator to report to the Congress on the prospects of increased use of waste water and sludge for productive purposes, including legal, institutional, public health and other impediments to the greater utilization of waste water and sludge.

The Administrator is also to recommend whether Federal legislation is adequate to encourage or require the expanded use of municipal waste water and sludge rather than the prevalent nationwide practice of discharge, landfilling, or incineration, or whether new legislation will be necessary.

OTHER ISSUES

Study of Industrial Disposal of Compatible Pollutants Into the Marine Environment

The committee heard testimony indicating that some Virgin Islands and Puerto Rico rum distillers and certain seafood processors might safely dispose of certain natural wastes untreated into the marine environment. In response to presentation of these statements, the committee directs the Environmental Protection Agency to conduct a study, to be completed by January 1978, to ascertain if there is merit in this argument and if disposal can be environmentally acceptable or even possibly beneficial. In this study the Administrator should specifically examine geographical, hydrological and biological characteristics of marine waters receiving such wastes to determine if the discharge can be environmentally acceptable either for the purpose of aquaculture or some other purpose. In addition, the study should examine technologies which might be used in these industries to facilitate the utilization of the valuable nutrients in these wastes or the reduction in discharge to the marine environment.

Water Treatment Contracting and Bid Shopping

The committee received information that section 204(a)(6) of the 1972 act which provides that no bids for equipment for treatment works may specify particular brand names, has been interpreted in current regulations in a way which requires acceptance of the low-dollar treatment equipment bid in practically all circumstances. Also, there is concern that post-contract bid shopping for lower-tier equipment sup-

pliers by successful bidders for grantee construction contracts has increased.

Information on potential problems posed by post bid-shopping and the emphasis on low dollar bid, has also been presented to the Environmental Protection Agency by concerned equipment suppliers. The committee directs the Administrator to review implementation of the section 204(a)(6) provisions to determine if any modifications of regulation or law may be necessary or appropriate. The committee expects the Administrator to include in his review an evaluation of whether or not principal subcontractors and equipment suppliers should be named in bid submissions for treatment works. The committee requests that the Administrator submit his report to the committee within 3 months of passage of this act. The Administrator should include an outline of any actions he proposes to take, together with recommendations for any necessary legislation.

Limestone

The committee also received written presentations concerning the application of uniform technological controls under the act to discharges of limestone. The issue is whether limestone, because of its chemical composition, should be treated in the same manner as other "rock" substances such as granite, metallic ores, sand, gravel, coal and traprock. The producers and processors of limestone maintain that limestone can provide certain benefits to water quality and therefore should not be subjected to the same requirements as other substances. The production and processing of limestone is carried out to a large degree by small firms, and concern was expressed as to the economic burden on such firms from controls which the industry claims are unnecessary.

To determine the extent to which these concerns are valid, the committee directs the Environmental Protection Agency to undertake a review of the application of the technological control requirements to limestone. Specifically, it should consider the effect of limestone in varying concentrations on water quality and the appropriateness of classifying it with other "rock" substances. Such an examination should be completed by January 1978, and a report on the Agency's findings and conclusions submitted to the committee.

ROLLCALL VOTES DURING COMMITTEE CONSIDERATION

During the committee's consideration of this bill, 17 rollcall votes were taken. Each of those votes was publicly announced during the open meetings of the Committee for marking up this legislation. The tabulation of those votes is available at the committee's files.

Pursuant to section 133 of the Legislative Reorganization Act of 1970 and the Rules of the Committee on Environment and Public Works, the vote of the committee to report the bill is announced here. The committee ordered reported the Clean Water Act of 1977 on July 22, 1977 by a vote of 15–0 with Senators Randolph, Muskie, Gravel, Bentsen, Burdick, Culver, Hart, Anderson, Moynihan, Stafford, Baker, McClure, Domenici, Wallop, and Chafee voting to report.

EVALUATION OF REGULATORY IMPACT

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of regulatory impact of the reported bill.

The existing Federal Water Pollution Control Act has substantial regulatory impact throughout the Nation. Approximately 6,000 industrial sources are regulated as to the amount of discharge into the Nation's waters. In addition, virtually every municipality in this country is required to construct treatment facilities which will treat sewage. Under present law, many of these sources of pollution are in violation of the 1977 deadline for secondary treatment and are thus subject to enforcement orders by EPA. Existing law governs all dischargers not just large industrial sources and municipal dischargers. Further, the regulatory impact of section 404 requires many sources who discharge dredge or fill material into navigable waters to obtain permits from the Army Corps of Engineers. The potential regulatory impact of this program is quite extensive.

The reported bill would redirect existing regulatory efforts in many important ways, but would not create wholly new regulatory authority in any area. Many of the provisions will reduce the Federal regulatory presence by encouraging an increased role on the part of the States. The bill has no impact on the personal privacy of individuals.

Many of the provisions of the bill are designed to reduce paperwork and administrative procedures, if implemented properly. Particularly the provisions for State certification of the construction grant program and the section providing for a combined step 2 and 3 grant procedure.

The economic impact provisions are discussed in the report under the specific headings. Recordkeeping requirements are not expanded beyond the scope of existing law.

Cost of Legislation

Congressional Budget Office,
U.S. Congress,
Washington, D.C., July 28, 1977.

Hon. Jennings Randolph,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for the Clean Water Act of 1977.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

Congressional Budget Office Cost Estimate

1. Bill Number: No number assigned S. 1952.
2. Bill Title: Clean Water Act of 1977.
3. Bill Status: As ordered reported by the Senate Committee on Environment and Public Works, July 26, 1977.
4. Purpose of Bill:

The bill provides authorization for the Environmental Protection Agency's (EPA) clean water program. The authorization period for EPA programs varies from a two-year authorization for the Alaskan Village demonstration projects to a six-year authorization for the construction grants program. The bill authorizes the appropriation of $3.5 billion in fiscal year 1977, $5.356 billion in fiscal year 1978 and $5.650 billion in fiscal year 1979. In fiscal year 1977, the entire authorization is for the municipal construction grants program. In fiscal years 1978 and 1979, $4.590 billion is for construction grants, $350 million is for general administrative activities, and the remainder for other purposes.

In addition, the bill includes substantive amendments to the Federal Water Pollution Control Act. The bill permits a single grant for step II (design) and step III (construction) for sewage construction projects with estimated costs of $2,000,000 or less. In addition, a new provision provides up to 10 percent of a state's allotment for alternative or unconventional sewage treatment works in small communities with a population less than two thousand five hundred, or larger communities with highly dispersed population. The bill also allows the Administrator to delegate administrative control of EPA construction programs to individual states. If a state assumes this responsibility, the Administrator of EPA may reserve an amount up to 2 percent of the state's allotment or not less than $400,000 per year, for use by the state for administration purposes. The bill also gives states a one-year extension to fiscal year 1978 for obligation of funds which were initially made available in fiscal year 1976.

5. Cost Estimate:

[In millions of dollars]

	Fiscal year				
	1977	1978	1979	1980	1981
Net additional authorization	3,500	[1] 5,214	5,650	5,850	4,690
Estimated costs	0	371	1,480	4,458	4,024

[1] Net of amounts already appropriated.

In fiscal year 1978, the authorization level shown represents the net additional authorizations over and above EPA's water quality appropriations contained in the conference version of the HUD—Independent Agencies appropriations bill (H.R. 7554). The amounts appropriated in H.R. 7554 for programs authorized in this bill are estimated at $143 million This bill authorizes $5.356 million in FY 1978 or an increase of $5.214 million over the appropriated amount.

The costs of this bill fall within budget subfunction 304.

6. Basis for Estimate:

It is estimated that if the additional $3.5 billion authorized for FY 1977 is appropriated in FY 1977, no outlays would result in that year. CBO estimates that approximately $1.0–$1.5 billion of the $3.5 billion would be obligated in FY 1978. The remaining portion of the $3.5 billion would be obligated in FY 1979. This is based on the current high unobligated balance available from prior contract authority and 1977 supplementals (i.e., Talmadge-Nunn and Spring Supplemental). Outlay projections are based on historical spendout rates for EPA construction grants.

For the EPA non-construction programs outlays are estimated at $221 million in FY 1978. These estimates were based on outlay rates supplied by EPA. The aggregated four-year outlay rate used for the non-construction program was:

Year 1: 35 percent.
Year 2: 29 percent.
Year 3: 31 percent.
Year 4: 5 percent.

7. Estimate Comparison: None.

8. Previous CBO Estimate: On March 28, 1977, a cost estimate was prepared for H.R. 3199, a similar bill reported by the House Committee on Public Works and Transportation.

9. Estimate Prepared By: James V. Manaro (225–7760).

10. Estimate Approved By: C. Q. Nuckl, James L. Blum, Assistant Director for Budget Analysis.

ADDITIONAL VIEWS

I strongly endorse the Clean Water Act of 1977 as reported by the Environment and Public Works Committee.

The committee bill is an affirmation of the commitment made by the Congress to the American people in 1972 with the passage of Public Law 92–500. While clearly placing the Senate Environment and Public Works Committee on record for restoring and preserving our Nation's water resources, this legislation reflects the 5 years of experience of the Congress, executive branch, permittees, and the public with the Federal Water Pollution Control Act. Deadlines are extended in some cases. Responsibilities of the States are expanded. Some sections of this complicated, detailed statute of 89 pages are rewritten. New programs are initiated. Nearly $30 billion is authorized. In total, the committee has made limited adjustments, refinements, and accommodations to the realities of administering a complex statute, without altering the basic goals and objectives of the 1972 Act and the Federal Government's commitment to protect the water resources we are blessed with in these United States.

My interest in the Clean Water Act of 1977 is motivated, apart from my own personal commitment to protecting our natural resources, by the important role water resources have played in the development of the State of Minnesota and by the priority my gubernatorial administration placed on the protection of Minnesota's abundant water resources.

It was the Dakota Indians who so aptly named my State "Minnesota," for in Dakota Indian language "Minne" means water and "sota" means white. In the 17th century, French explorers came by water from Montreal in their canoes westward along the northern shore of mighty Lake Superior, the greatest of the Great Lakes and the world's largest freshwater lake. These French voyageurs portaged over the towering forest-covered cliffs of the North Shore of Lake Superior and were greeted by lakes—thousands of them.

The lake area that greeted the voyageurs now comprises the one million acre Boundary Waters Canoe Area, the last remaining true wilderness area of its type in the United States, and a water-rich land of crystal clear lakes. Nearby the BWCA, another prized Minnesota resource, the Kabetogama Peninsula and surrounding Kabetogama, Rainy, and Namakan Lakes were set aside by the Congress in 1971 as the Nation's 33d and perhaps most unique national park, Voyageur's National Park. 164,000 acres, of which about 60,000 acres are water and a park that is essentially only accessible by water.

Lake Superior, the Boundary Waters Canoe Area, and Voyageur's National Park—three of Minnesota's most important water resources, are by no means all of the water wealth of the North Star State. Minnesota, at the headwaters of three of North America's most important watersheds, the Lake Superior, Hudson Bay, and Mississippi River

basins, is blessed with more than 4,000 square miles of inland waters, 15,291 lakes of 5 acres or more, and more than 25,000 miles of rivers and streams.

Minnesota's water wealth includes the mightly Mississippi River which winds its scenic and historic way along the State's eastern border and has its source at Itasca State Park. But the Father of Waters is not alone as a major riverway in our State. The breathtaking and scenic St. Croix River, now protected for generations to come as part of the National Scenic Rivers System, forms the eastern border of the State with Wisconsin. The St. Croix provides recreational opportunities for over 2 million people in the Twin Cities area, most of whom are only 30 minutes away from its clean and fast flowing waters. A score of other rivers wind through the State.

The lakes, rivers, and streams of Minnesota, are not the State's entire water resource for these surface waters are complemented by vast, pure groundwater resources that lie beneath large portions of Minnesota. It is estimated that the groundwater aquifers underneath Minnesota encompass 300 cubic miles.

Minnesotans, like their counterparts in all parts of our country, depend on these surface and groundwater resources for their livelihood, drinking water, and recreation. The cities of Minneapolis and St. Paul grew up on the banks of the Mississippi River where the water power of the Mississippi powered the flour milling industry. The Mississippi and Minnesota Rivers are major channels of waterborne commerce, moving agricultural and energy products and supplies to and from the State and region. The Port of Duluth is today a world port for interstate and international commerce moving on the Great Lakes. The iron ore and taconite from Minnesota's Iron Range have fueled the steel industry for a century as a result of ore boats moving steadily across Lake Superior bringing raw materials for the blast furnaces in Ohio and Indiana.

This same bounty of water in Minnesota forms the springboard for Minnesota's tourist industry. Five million out-of-state visitors annually trek to the North Star State and produce a tourist trade estimated at close to $1 billion. The lures to our State provided by these water resources are many and varied: fishing with 2 million licensed anglers, boating with 500,000 licensed watercraft, and a host of other recreational opportunities, in summer and winter.

Minnesota water resources are not only located and enjoyed in non-urban areas. Minneapolis, the City of Lakes, is known for its chain of lakes in the heart of the city and its annual "Aquatennial" celebration. St. Paul's several urban lakes likewise provide a variety of recreational opportunities for its residents.

A State as dependent on water as Minnesota knows all too well the consequences of unwise management of surface and groundwater resources. The continuing public support for restoring and preserving water resources in Minnesota is based not only on a historical stewardship of natural resources by our citizens but also from instances all too well etched in the experiences of Minnesotans, where our water resources have been carelessly and thoughtlessly degraded.

The most difficult issue I faced as Governor of Minnesota for 6 years was the continuing pollution of Lake Superior at Silver Bay

by Reserve Mining Co. Since 1955, nearly 200 million tons of taconite tailings have been disposed of in Lake Superior by this taconite company. Minnesotans are not proud of this misuse of the world's greatest freshwater lake. The long-sought and pending settlement of this insult to Lake Superior will be as much an emotional relief for our citizens as it will be a biological victory for Lake Superior.

The Reserve Mining Co. controversy, while commanding the attention of Minnesotans the past decade, is unfortunately not the only example of abuse and misuse of the water resources of the State. Industrial discharges to the St. Louis River deteriorated water quality in that northern Minnesota river and in St. Louis Bay of Lake Superior. The Mississippi and Rainy Rivers were subjected for decades to improperly treated paper industry effluent. Dredging by the Corps of Engineers in the Duluth harbor and in the Mississippi River has been the source of the resuspension of tons of bottom sediments and pollutants.

While the State is ahead of most states in upgrading municipal wastewater treatment plants, downstream interests remain concerned today with noncomplying municipal discharges in St. Paul, Bemidji, and on the St. Croix River south of a planned expansion of a treatment plant in St. Croix Falls—Dresser, Wis.

The clean lakes section of the 1972 Act was prompted essentially by the concerns in Minnesota about the deteriorating condition of recreational lakes. Senator Walter F. Mondale developed the clean lakes program in response to problems he saw around the State where agricultural runoff, municipal and industrial discharges, and extensive sedimentation were ruining the recreational value of many lakes.

Minnesota has experienced pollution not only of surface water resources, but its groundwater as well. Spills of chemical and hazardous wastes have threatened the States vast, but fragile groundwater resources. The drought in Minnesota the past several years has dangerously depleted Minnesota's groundwater resources as farmers and other water users have increased groundwater withdrawals, since precipitation and surface water sources of water for agriculture have declined. Irrigation permit requests to the Minnesota Department of Natural Resources have increased 200 percent in the past year. The drought has also made Minnesotans think carefully about their use of water as reservoirs have been drawn down around the State, wells gone dry, and the Mississippi River, the principal source of water for the Twin Cities, now flows at 60 percent below normal, after an all-time recorded low flow in August 1976.

In the western part of the State, concern over potential water quality impacts on municipal and industry users of the Red River of the North as a result of irrigations return flows from the Garrison diversion unit, has prompted the administrative and legal involvement of the Minnesota Pollution Control Agency.

Consequently, Minnesota, by definition, throughout its history, and in present day life, is particularly dependent on her rich and varied water resources. And, Minnesotans, have seen their share of the careless and callous abuse of their water resources.

I became chief executive of Minnesota's State government in 1971. The State of Minnesota had, prior to that time, made good progress

to protect and enhance the water resources of the State. When I now reflect on my 6 years as Governor of Minnesota, I believe there was no other subject area where more substantive, comprehensive progress was made than in the protection of Minnesota's air, land, and water resources. In my judgment, no State enacted a more comprehensive program of legislation to restore and preserve the environment than did Minnesota in those years. I would match my State's environmental record in this decade against any other.

A simple listing of the legislative and administrative actions taken in Minnesota since 1970 to protect its water resources is evidence enough of what one State has done to see that clean water can be enjoyed by the children and grandchildren of its residents: State siting of power plants, tranmission lines, and other energy facilities. The Critical Areas Act to freeze development in areas of unique cultural, historical, or recreational value; $150 million in State matching dollars to supplement the Federal wastewater treatment construction grants program. Establishment of Voyageur's National Park. The Minnesota Environmental Policy Act as a State counterpart to NEPA Regulation of the phosphate content of detergents. Regulation of the land disposal of chemical and hazardous wastes. A five-fold increase in the staff resources of the Minnesota Pollution Control Agency. The Minnesota Wild & Scenic Rivers Act. State funds for local land use planning. Controls over marine sanitation devices. Special protections for the St. Croix River. Comprehensive amendments to State water resource and drainage statutes. A floodplain management program. Civil penalties for the violation of State water pollution standards. Shoreland management legislation. A dam inspection and maintenance program. The Mineland Reclamation Act. Establishment of lake improvement districts. A statewide water information system. Land use and development controls for the Twin Cities metropolitan area. Prohibitions against the manufacture, sale and disposal of products containing PCB's. A regional environmental analysis of the potential water and other resource impacts from a copper-nickel mining industry. State controls of mining in the Boundary Waters Canoe Area. A groundwater resources inventory. A State Environmental Quality Council charged with assessing long-term impacts on Minnesota's environment of further development in the State. A certificate of need process for all power plants and other energy supply and transportation facilities. Regulations to control the siting and operation of individual wastewater treatment systems.

This list is long and represents a great deal of effort. It indicates both a priority and practice in the State of Minnesota of protecting natural resources, particularly water resources.

The Federal Government, through Public Law 92–500, has also had a significant impact on the State of Minnesota. The Minnesota Legislature in 1973, following enactment of Public Law 92–500, moved expeditiously to grant the Minnesota Pollution Control Agency the necessary authority to impose civil and criminal penalties and provide additional staff resources, so to enable the MPCA to be in the first group of States to receive delegation of the NPDES permit program. Minnesota has consistently obligated its entire share of construction grant funds. In fact, the State of Minnesota was a plaintiff in the

successful litigation that forced the release of construction grant funds impounded by the Nixon Administration.

Throughout the State, both municipalities and industries are ahead of the national pace to construct facilities to comply with the 1977 secondary treatment and BPT deadlines. Only one major industry has not initiated construction of facilities to meet the 1977 BPT deadline. The Mississippi River is gradually being restored as municipal and industrial discharges to the State's largest receiving water come into compliance. Lake Minnetonka, west of the Twin Cities and an important recreational resource, was degraded by septic tank infiltrations that spawned algae blooms. Following the installation of a sewer system, that lake has seen a tremendous improvement in water quality.

The Duluth-Superior harbor has traditionally been listed as an area not in compliance with the Great Lakes Water Quality Agreement. In 1979, that area will see the end of the inadequate treatment of municipal and industrial discharges when a tertiary treatment facility is in operation to treat all municipal wastes from Duluth and surrounding towns and municipalities, and all industries that have for decades discharged into either the St. Louis River or St. Louis Bay.

Farther up the North Shore of Lake Superior at Silver Bay construction at long last has begun on an onland tailings disposal system for the taconite wastes of Reserve Mining Co. If the Construction schedule is met, the present 67,000 tons of taconite wastes that daily enter Lake Superior will be deposited on land in 1980.

West of Silver Bay at Ely, the operation of an advanced wastewater plant has successfully restored Lake Shagawa, part of the BWCA watershed, and for years degraded with heavy phosphorus loadings. Farther north, on the border with Ontario at International Falls, Boise Cascade Co. has made a significant investment in pollution abatement facilities to control discharges of pulp and paper wastes to the Rainy River. The improved effluent will resolve a sensitive issue between the two nations.

Across the State, hundreds of Minnesota's lakes that have for decades been the receiving waters for municipal discharges, are gradually been protected by the construction of modern treatment works. With an appropriation recently made by the 1977 Minnesota Legislature, $150 million in State funds have been made available to match Federal funds.

Recreational lakes are also being protected by the growing interest of lakeshore owners in lake improvement projects. Minnesota was the birthplace of the clean lakes program and has received project grants to date for five lakes under this program. The Minnesota Legislature in 1977 expanded a State program to complement the Clean Lakes section and appropriated State matching funds for this purpose.

The State of Minnesota has also recognized the absolute necessity of the proper location and operation of septic tanks and other individual waste treatment systems. Comprehensive State regulations on individual systems will be soon promulgated by the MPCA and will be a model for other States on the regulation of individual systems.

Finally, in Minnesota the control of municipal and industrial point sources and the regulation of individual waste treatment systems, is

being implemented with equal attention to the importance of nonpoint source controls. Minnesota has initiated a comprehensive section 208 program, both for the Twin Cities and for out-state Minnesota. Regional Development Commissions throughout the State are assisting the MPCA in the preparation of areawide water quality management plans to identify and recommend management strategies for nonpoint water pollution, particularly from agricultural activities.

I approached consideration by the Environment and Public Works of the Clean Water Act of 1977 with this Minnesota background.

I chaired three of the seven field hearings and attended all seven Washington, D.C., hearings of the committee on this legislation because of my interest in this program and my desire to hear from as many people as possible on how the Federal Government's efforts to clean up the Nation's waters were working and what adjustments, if any, should be made to the 1972 act.

Because of the widespread interest in Minnesota in water quality issues, Chairman Randolph graciously granted my request that two field hearings and several field inspections be scheduled for Minnesota as part of the committee's field hearing schedule.

The two Minnesota field hearings were important to me so that Minnesotans—whether representing local or State governments, environment and citizens groups, farm or labor organizations, industries, or just themselves, would have an opportunity to be heard on this program outside of Washington. D.C. In congressional deliberations on the 1972 act, neither the House nor Senate Public Works Committees had any field hearings in our State and to my knowledge, no field hearing on any environmental subject had been held in previous years by the Senate Environment and Public Works Committee in Minnesota.

At the Duluth and Alexandria hearings, 60 witnesses presented statements, either by invitation or on their own initiative, on a variety of aspects of the Federal water pollution control program. Many other individuals and interest groups have submitted written statements for the hearing record. My colleagues need only review the record from the Duluth and Alexandria hearings to see the important and wide-ranging recommendations that the Senate received in those 2 days.

There is no question that Minnesotans were given the opportunity to provide more input to the Senate Environment and Public Works Committee on water pollution than any other State. For that I am grateful to Senator Randolph, Senator Muskie, and the subcommittee staff, and, to the many Minnesotans who attended the hearings in Duluth and Alexandria to demonstrate their concern for clean water. At the end of these views is a listing of all witnesses who testified at Duluth on June 2 and Alexandria on June 3. I believe my colleagues will find this list both impressive in length and in the variety of interest groups represented. Nearly an equal number of individuals have since submitted written statements to the committee for the hearing record.

The Duluth and Alexandria hearings produced a wide variety of recommendations and suggestions to amend the Federal Water Pollution Control Act. Panel discussions were held on several issues includ-

ing the 1977 and 1983 industrial deadlines, the control of toxic chemicals, the operations of large municipal systems, the problems of small communities, the use of alternative treatment systems, the clean lakes program, and sections 208 and 404. In addition, the subcommittee staff and I were able to see several municipal treatment works in Duluth, Ely, St. Cloud, and Alexandria that have been constructed with Federal funds.

During markup of the Clean Water Act of 1977 I offered a number of amendments, and supported many others, based on testimony from the Minnesota field hearings, the Seattle, Wash., field hearing that I chaired, and the Washington, D.C., hearings.

These amendments relate to various sections of the Federal Water Pollution Control Act and are described in the Committee report:

1. Section 105—authorizes the EPA to assist in the operation and maintenance costs of research or demonstration treatment works.

2. Section 109—Expands the use of construction grant funds for the training of municipal treatment works operators.

3. Section 203—permits the EPA or State agency to be a party to a contract between a consulting or engineering firm and a municipality for enforcement purposes.

4. Section 204—amends the industrial cost recovery system to allow the reduction in ICR payments of users that implement flow conservation practices, to allow municipalities to use a portion of ICR payments for administrative costs, and to exempt small users from ICR, under certain conditions.

5. Section 312—amends the marine sanitation device section to require a minimum of secondary treatment of wastes from commercial vessels on the Great Lakes and other navigable waters, and other provisions.

6. Section 314—amends the Clean Lakes section to require EPA support of State lake restoration surveys, authorizes an additional $450 million for the clean lakes program, and includes report language expressing dissatisfaction with the administration of the clean lakes program by the EPA.

7. Section 404—mandates that all dredging activities of the U.S. Army Corps of Engineers be conducted in compliance with applicable state water quality standards, and all other State substantive and procedural requirements.

8. Section 516—requires EPA to analyze the problem of municipal combined sewer overflows.

9. Section 516—requires EPA to analyze the status and potential of projects that utilize municipal wastewater and sludge for a productive purpose.

The deadline for the preparation of these additional views does not permit me to explain the background and rationale of several of these amendments. I intend to bring such information to the attention of my colleagues when the Clean Water Act of 1977 is on the floor of the Senate. Likewise, I supported several other amendments in committee on the control of toxics, the use of alternative systems, the delegation of authority to state agencies, the protection of wetlands, and the control of agricultural nonpoint water pollution.

I will indicate to my colleagues my interest in these subjects during floor consideration of this legislation.

While I support the Clean Water Act of 1977, on the subject of authorizations for the construction grants program, I believe the committee should have increased the annual figure for this program above the administration's recommendation.

The administration's recommendation of a 10 year authorization for the construction grants program of $4.5 billion annually is based on the remaining Federal share of the construction of eligible treatment works nationwide. This figure assumed, however, that the Congress accepts the recommendations of the administration to eliminate several eligible categories. The committee, while eliminating major sewer rehabilitation projects and the control of discharges from separate storm sewers from eligibility, did not exclude collector sewers as the administration also recommended. Depending on the method of application of the collector sewer eligibility criteria that were adopted, up to $11.9 billion of collector sewer projects remain eligible for Federal funds. Consequently, the basis for the $4.5 billion annual authorization no longer is completely valid.

The committee also adopted several amendments to the construction grants program that will increase the ability of the States to obligate construction grant funds. The result shoud be an accelerated pace of treatment works construction to correct water quality problems. I recently requested the Congressional Research Service to study the obligation capability of selected States for municipal wastewater treatment grant funds. The CRS concluded that an annual obligation in excess of $4.5 billion is possible, if current legislative and administrative constraints in the construction grants program are removed.

The committee adopted in this legislation several amendments to increase the obligation capability of the States:

First, the 5 year construction grants program authorization assists those States that have been fearful of increasing staff resources so to handle a large number of projects without a multiyear commitment from the Congress that these personnel will be used productively.

Second, the State certification amendment, that permits the Administrator to allot 2 percent of a State's annual appropriation for the management of the construction grant program, will assist the States in speeding the flow of dollars to municipalities, engineers, and contractors.

Third, the combined step 2 and step 3 grants will reduce the processing time for many projects.

Finally, the restoration of previous EPA staff cutbacks in the fiscal year 1978 budget and the language in this report urging the administration to provide EPA with additional personnel for the construction grants program, will, if implemented, increase the efficiency of EPA in processing annually the thousands of construction grant project applications.

Consequently, the basis for an annual multiyear authorization of $4.5 billion is no longer valid. Further, the other rationale cited to keep the authorized level to that figure, the inability of the administrative system to obligate a larger figure, is called into question by several amendments the committee has adopted in this legislation.

I believe an annual authorization of $5 billion or even $6 billion is justified for the construction grants program, if not for fiscal year 1978

because of phase-in problems, certainly for the remaining 4 years of the authorization period. I consider the construction grants program both crucial Federal assistance for the improvement of the quality of our Nation's waters and a public works program far more productive than many other present uses of public works dollars.

It seems to me that these two good public policy purposes could be served if additional Federal dollars were authorized for the construction grants program. In addition, since inflation costs for the construction of municipal treatment works exceeds the national average, additional funds in the near term will result in the construction of more treatment works.

Accordingly, it is my judgment that the annual authorization for the construction grants program should be increased. I did accept the judgment of Senator Muskie in markup that in this bill, the figure of $4.5 billion be retained. I urge my colleagues on the Environment and Public Works Committee to analyze the impact of the final version of the Clean Water Act of 1977 on the construtcion grant authorization level and determine, for the fiscal year 1979 budget, whether a higher level is justified. I also will urge the Carter administration, in light of this committee's action on eligible categories and the other amendments I have mentioned. to reassess its recommendation of $4.5 billion.

In December, 1971, I testified before the House Public Works Committee on amendments to the Federal Water Pollution Control Act. In reading through that testimony it is interesting to see what issues of concern to a Governor in 1971 were enacted in Public Law 92–500.

I concluded that testimony before then Chairman John Blatnik, from Minnesota's Eighth Congressional District, as follows:

> We must act now to reshape priorities so that both clean water and productive capacity are achieved. If we do not act, rivers like the Buffalo, Rouge, and Cuyahoga will continue to catch fire because of the pollution in them. And nobody sets his house on fire just to keep temporarily warm. When that glow is gone, all we are left with is ashes. Our people deserve a better legacy.

National priorities were reshaped by Public Law 92–500. Much has been accomplished since passage of the 1972 act to insure that our waters are cleaner for our children and grandchildren than they are today.

This legislation continues the Federal commitment to clean water. It deserves prompt consideration and enactment by the Senate. Implicit in the Clean Water Act of 1977 is that the Nation's glass of clean water is now half full. The severe pollution in the Buffalo, Rouge, and Cuyahoga Rivers, that caught the attention of the public and the Congress in earlier years and gave impetus to the 1972 Act, are now only memories.

But the burning rivers of the past are now replaced by Kepone in the James River, and PCB's in the Great Lakes and Mississippi River. Seven out of ten municipalities still are not discharging adequately treated effluent. Nonpoint source pollution has not been confronted. 112 chemicals have been found in the drinking water of New Orleans. Contaminated fish in Florida's Biscayne Bay are not suitable to eat.

Cancer mortality is increasing and what we drink is increasingly suspect as the cause. Wetlands continue to be threatened. Treated municipal effluent and sludge is in most cases merely discharged, incinerated, or land-filled, instead of being used, as in many other countries, for its water content or nutrient value. Chlorination of water is suspect because of the potentially harmful chemical compounds that are formed in the chlorination process. And, the use of pesticides will increase by 50 percent by 1984 with potentially serious consequences of pesticide runoffs to the waters of the Nation.

The challenge of clean water for all Americans remains. The Clean Water Act of 1977 continues the commitment of the Congress in Public Law 92–500, to restore and maintain the ecological health of our Nation's water.

WENDELL R. ANDERSON.

WITNESS LIST—DULUTH, MINN.

June 2, 1977

Sandra S. Gardebring, Executive Director, Minnesota Pollution Control Agency.
Dr. Alden Lind, Save Lake Superior Association.
Representative Arlene Lehto, Minnesota House of Representatives.
Joseph Foran, Minnesota Public Interest Research Group.
Ken Carlson, Minnesota Power and Light Company.
Richard Nachbar, Boise-Cascade Corp.
Russell Susag, 3M Co. (representing Dr. Joseph Ling).
Gary Welk, Northern States Power Co.
Dr. Steve Chapman, Clear Air-Clear Water Unlimited and Minnesota Environmental Control Citizens Association.
Mayor Robert Beaudin, City of Duluth.
Jim Hoolihan, City of St. Cloud (representing Mayor Al Loehr).
Richard Dougherty, Metropolitan Waste Control Commission.
Cliff Grinde, Western Lake Superior Sanitary District.
Ben Boo, Western Lake Superior Sanitary District.
Milt Knoll, Hoerner-Waldorf-Champion International.
David Zentner, President, Izaak Walton League of America and member, Minnesota Pollution Control Agency.
Jerry Seck, Leech Lake Reservation Business Committee.
William Marks, Michigan Department of Natural Resources.
Walter Sherman, Flambeau Paper Co.
Thomas Smrekar, Potlatch Corp.
Gretchen Van Hauer, Duluth Chapter, National Audubon Society.
Fern Arpi, Virginia, Minn.
Karen Carlson, Save Lake Superior Association.
Gloria Hamman, Duluth League of Women Voters.
Betty Hetzel, Superior, Wisconsin League of Women Voters.
Bethel Anderson, Society Concerned About a Ravaged Environment.
Charles Walbridge.
Robert Charleston, Black River Falls, Wis.

Don Eckstrom, Clear Air-Clear Water Unlimited.
Marjory Christenson, Minnesota Environmental Control Citizens Association.
Alderman Freeman Johansen, City of Cloquet.
Charles Stoddard, Northern Environmental Council.
Milton Mattson, Save Lake Superior Association.
Glen Merdelson.
Gail Merland.

WITNESS LIST—ALEXANDRIA, MINN.

June 3, 1977

Duke Addicks, Minnesota League of Cities.
Mayor Morris Sheppard, City of Madison Lake.
Roger Machmeier, Citizens Advisory Committee on Individual Sewage Treatment Systems.
John Sullivan, Alexandria Lake Area Sanitary District.
Richard Neises, Minnesota Green, Mississippi Clean, Inc.
Bud Anderson, Minnesota Conservation Federation.
Paul Davis, Minnesota Pollution Control Agency.
Vern Reinert, Minnesota State Soil and Water Conservation Board.
Mattie Peterson, Izaak Walton League of Minnesota.
Cy Carpenter, President, Minnesota Farmers Union.
Russ Schwandt, President, Minnesota Agri-Growth Council.
Ted Shields, Minnesota Association of Commerce and Industry.
Joe Schilling, Minnesota Pollution Control Agency.
George Dimke, Rice Creek Watershed District.
John Elwell, City of Albert Lea.
Perry Smith, City of Minneapolis.
Dr. Joseph Shapiro, University of Minnesota.
Senator Myrton Wegener, Minnesota State Senate.
Sandy Dibrito, City of Perham.
Hal Haugejorde, Green Lake-New London-Spicer Sanitary District.
Dwayne Osland, Green Lake-New London-Spicer Sanitary District.
Williard Pearson, President, Minnesota Association of Watershed Districts.
Robert Wetherbee, Wilkin Soil and Water Conservation District.
Merritt Bartlett, Clearwater River Watershed District.
Tony Haasser, Office of Congressman Arlan Stangeland.
Archie Zeithamer, Alexandria, Minn.
Lloyd Melvie, Dassel Area Environmental Association.
Gary Martens, Minnesota Association of Farmer Elected A.S.C.S. Committeemen.
Larry Schultz, Osakis, Minn.
Ruth Ray, Upper Minnesota River Valley Regional Development Commission.
Leo Rust, North Dakota Farm Bureau.
Ed Grady, Minnesota Farm Bureau Federation.
Alderman Robert Larson, City of Rochester.
Verlyn Marth, Herman, Minn.
Helen Von Lorenz.
Jim Von Lorenz.

ADDITIONAL VIEWS OF MR. McCLURE

I take exception to the characterization of the testimony presented to the committee by Dr. Edwin Gee, vice president of the duPont Corp., which appears in this report in the discussion of the provision which provides for a modification of the 1983 "best available technology" requirement for industrial dischargers.

I believe that Dr. Gee's presentation suggested a course of action quite different from that ultimately adopted by the committee in the control of so-called toxic pollutants. Yet, the impression which is left by this section of the report is that the approach adopted by the committee was essentially that recommended by Dr. Gee. While it is true that his testimony was an important force in shaping the thinking of many members of this committee, and that his presentation was thoughtful and forceful, it would be an injustice to his presentation to omit, as the report does, an important feature of his recommendation. In fairness to him, we quote the principal features of his recommendations as they appear in this testimony to the committee on June 23, 1977:

> In many cases, substances classified as toxic constitute a small part of a total waste stream. In such cases, it may be more cost effective to use levels of control beyond BPT only on that portion of the waste stream containing the toxic pollutant. In other situations, going backward in the process to eliminate the toxics at the source would be preferable to mandating an elevated level of toxicological control for the entire waste stream or for an entire industrial category. EPA's approach should be flexible enough to allow for this.
>
> There are a number of control schemes that would effectively control toxic pollutants. The basic requirements are that they be established on a sound scientific basis and that they provide EPA with the necessary level of flexibility to meet widely varying conditions. Pursuant to the terms of a legal agreement reached with NRDC, EPA now is focusing its efforts to develop effluent limitations based upon BATEA for specific toxic compounds. I feel an approach in this direction has merit, although I seriously question the inflexible application of BATEA in each and every case.
>
> The approach I recommend can be accomplished by modification of section 307 of the current Act. In accordance with this authority EPA should develop a toxics control program along the following lines.
>
> (1) Identify which pollutants are considered to be toxic, i.e., they pose an unreasonable risk of injury to health or the environment because they
>
> —bioaccumulate in the food chain;
>
> —are chronically toxic, for example, they are carcinogenic, mutagenic, or teratogenic; or
>
> —are acutely toxic.

(2) Establish effluent limitations for individual toxic pollutants. Such limitations should be developed under a flexible system which gives EPA authority to use:

(a) specific concentration limits at levels determined not to pose an unreasonable health or environmental risk whenever existing knowledge allows these to be specified, or

(b) technology based limits similar to BATEA when knowledge is insufficient to set specific acceptable concentration limits.

(3) Using the existing permit system, apply these effluent limitations on a case-by-case basis to discharges which contain toxics.

I do not view such an approach as an administrative impossibility. Right now EPA sets individual limits for many individual substances in over 25,000 NPDES permits on a case-by-case basis. The Chambers Works example I mentioned earlier is not atypical. Virtually every du Pont NPDES permit contains additional parameters for individual substances. These permits promptly can be amended to include others, if warranted.

Such a program would benefit the Nation in two ways:

(A) The objectives of the Act would still be accomplished, i.e., improving our waters to a quality fully adequate to its many uses.

(B) The objectives would be accomplished in such a way as to avoid needless expenditures with no measurable benefit thus easing what everyone agrees is an awesome economic burden for the country.

We all recognize that the control of water pollution will be accomplished only after considerable effort and expense. I am not here to use this fact as an excuse for not doing it. Quite the contrary, this is something we can and should do. We should move promptly to control toxics by a flexible, effective approach, and we should make full use of the several provisions now in the law which maintain water quality in the face of growth. Anything else such as technology for the sake of technology where no water quality gains will result is an unconscionable waste of the Nation's resources.

In spite of this recommendation, the committee did not feel confident that it was possible for the Administrator of EPA to reliably determine at what specific concentrations these "gray area" pollutants do not pose an unreasonable health or environmental risk in the water. Thus, under the law the control of potentially toxic pollutants is accomplished through a technology-based effluent limitation, not one based on water quality, with the exception of those few pollutants which have been identified as toxic under section 307(a) and which are subject to a strict burden of proof. The only change which the committee made with respect to industrial dischargers is the modification of the 1983 BAT requirement for conventional pollutants.

JAMES A. MCCLURE.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

TITLE I—RESEARCH AND RELATED PROGRAMS

DECLARATION OF GOALS AND POLICY

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, reduction, and elimination of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called "Administrator") shall administer this Act.

(e) Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

(b) (1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

(2) The need for and the value of storage for regulation of streamflow (other than for water quality) including but not limited to navi-

gation, salt water intrusion, recreation, esthetics, and fish and wildlife, shall be determined by the Corp of Engineers, Bureau of Reclamation, or other Federal agencies.

(3) The need for, the value of, and the impact of, storage for water quality control shall be determined by the Administrator, and his views on these matters shall be set forth in any report or presentation to Congress proposing authorization or construction of any reservoir including such storage.

(4) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of regulation of streamflow in a manner which will insure that all project purposes, share equitably in the benefits of multiple-purpose construction.

(5) Costs of regulation of streamflow features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

(6) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

(c) (1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control plan for a basin or portion thereof.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control plan for the basin or portion thereof which—

(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council, any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

(3) For the purposes of this subsection the term "basin" includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

INTERSTATE COOPERATION AND UNIFORM LAWS

SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention, reduction, and elimination of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention, reduction, and elimination of pollution; and encourage compacts between States for the prevention and control of pollution.

(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) The Administrator shall establish national programs for the prevention, reduction, and elimination of pollution and as part of such programs shall—

(1) in cooperation with other Federal, State, and local agencies, conduct and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, reduction, and elimination of pollution;

(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, Organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Geological Survey, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

(6) initiate and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than January 1, 1974.

(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention, reduction, and elimination thereof; and

(7) develop effective and practical processes, methods, and prototype devices for the prevention, reduction, and elimination of pollution.

(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of

other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secreary of Health, Education, and Welfare.

(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

(1) Practicable means of treating municipal sewage, and other waterborne wastes to implement the requirements of section 201 of this Act;

(2) Improved methods and procedures to identify and measure the effects of pollutants, including those pollutants created by new technological developments; and

(3) Methods and procedures for evaluating the effects on water quality of augmented streamflows to control pollution not susceptible to other means of prevention, reduction, or elimination.

(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention, reduction and elimination of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out. In conjunction with the development of criteria under section 403 of this Act, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

(g)(1) For the purpose of providing an adequate supply to trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not

supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, reduction, and elimination of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellows; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, reduction, and elimination of pollution for personnel of public agencies and other persons with suitable qualifications.

(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

(2) publish from time to time the results of such activities; and

(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than January 1, 1973, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

(m)(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study

of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

(2) The Administrator shall report the preliminary results of such study to Congress within six months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and shall submit a final report to Congress within 18 months after such date of enactment.

(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during [any three year period] *any six-year period.* Copies of each such report shall be made available to all interested parties, public and private.

(4) For the purpose of this subsection, the term "estuarine zones" means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other meth-

ods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing, reducing, and eliminating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

(q) (1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

(3) The Administrator shall establish, through contract with an appropriate public or private non-profit organization, a national clearinghouse which shall (A) receive reports and information resulting from research, demonstrations, and other projects funded under this Act related to paragraph (1) of this subsection and to subsection (e) (2) of section 105; (B) coordinate and disseminate such reports and information for use by Federal and State agencies, municipalities, institutions and persons in developing new and improved methods pursuant to this subsection; and (C) provide for the collection and dissemination of reports and information relevant to this subsection from other Federal and State agencies, institutions, universities and persons.

(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of

the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as "River Study Centers") for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water related activities. No such grant in any fiscal year shall exceed $1,000,000.

(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) such data as are available on the latest available technology, economic feasibility including cost-effectiveness analysis, and (2) the total impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of fresh water and other natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than 270 days after enactment of this subsection, and shall be made available to the public and the States, and considered as they become available by the Administrator in carrying out section 316 of this Act and by the States in proposing thermal water quality standards.

(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974 and the fiscal year ending June 30, 1975, for carrying out the provisions of this section other than subsections (g) (1) and (2), (p), (r), and (t); (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and [1975] *1975, $7,500,000 for each of fiscal years 1978, 1979, and 1980* for carrying out the provisions of subsection (g) (1); (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and [1975] *1975, $2,500,000 for each of fiscal years 1978, 1979, and 1980*, for carrying out the provisions of subsection (g) (2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

(1) any project which will demonstrate a new or improved method of preventing, reducing, and eliminating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with in stream water quality improvement techniques.

(c) In order to carry out the purposes of section 301 of this Act, the Administrator is authorized to (1) conduct in the Environmental Protection Agency, (2) make grants to persons, and (3) enter into contracts with persons, for research and demonstration projects for prevention of pollution of any waters by industry including, but not limited to, the prevention, reduction, and elimination of the discharge of pollutants. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining pollutants so they will not migrate to cause water or other environmental pollution; and

(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

(e)(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing, reducing, and eliminating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and

section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

[(2) No grant shall be made for any project in an amount exceeding 75 per centum of cost thereof as determined by the Administrator; and]

(2) The Federal grant for any project shall not exceed 75 per centum of the cost thereof as determined by the Administrator, except that in any case where a project is entitled to priority pursuant to subsection (e) of section 303 of this Act, the Administrator is authorized to utilize an amount, not to exceed one-half of 1 per centum, of the sums alloted to the State in which such project is located pursuant to section 205 of this Act, to pay the non-Federal costs of such project;

(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) and (2) of subsection (a) [.]; *and*

(4) In any case where the Administrator pays the non-Federal costs of a project, the State, municipal, interstate, or intermunicipal agency or agencies receiving the grant shall comply with all appropriate conditions, limitations, and requirements under title II of this Act.

(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

(h) For the purpose of this section there is authorized to be appropriated $75,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e).

(i) The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section or section 104 of this Act in order

to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under title II of this Act.

GRANTS FOR POLLUTION CONTROL PROGRAMS

SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974, [and the fiscal year ending June 30, 1975] *and the fiscal year ending June 30, 1975, and $75,000,000 for each of the fiscal years ending September 30, 1978, 1979, and 1980*;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

(1) the allotment of such State or agency for such fiscal year under subsection (b), or

(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

(e) Beginning in fiscal year 1974 the Administrator shall not make any grant under this section to any State which has not provided or is not carrying out as a part of its program—

(1) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition), the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provisions for annually updating such data and including it in the report required under section 305 of this Act;

(2) authority comparable to that in section 504 of this Act and adequate contingency plans to implement such authority.

(f) Grants shall be made under this section on condition that—

(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after the date of enactment of this section:

(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

(B) such additional information, data, and reports as the Administrator may require.

(2) No federally assumed enforcement as defined in section 309 (a)(2) is in effect with respect to such State or interstate agency).

(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval its program for the prevention, reduction, and elimination of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

(4) In approving any priority list or making any determination as to priority under this subsection or sections 204(a)(3) or 303(e) of this Act for grants for design or construction, the Administrator shall require that highest priority be given to treatment works which are necessary to comply with sections 301(b), or 201(b), (d), and (g)(2)(A) of this Act.

(g) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

MINE WATER POLLUTION CONTROL DEMONSTRATIONS

SEC. 107. (a) The Administrator in cooperation with the Appalachian Regional Commission and other Federal agencies is authorized to conduct, to make grants for, or to contract for, projects to demonstrate comprehensive approaches to the elimination or control of acid or other mine water pollution resulting from active or abandoned mining operations and other environmental pollution affecting water quality within all or part of a watershed or river basin, including siltation from surface mining. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, and other pollution affecting water quality, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution affectieng water quality from acid, sedimentation, or other pollutants and in such projects to restore affected lands to usefulness for forestry, agriculture, recreation, or other beneficial purposes.

(b) Prior to undertaking any demonstration project under this section in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965, as amended), the Appalachian Regional Commission shall determine that such demonstration project is consistent with the objectives of the Appalachian Regional Development Act of 1965, as amended.

(c) The Administrator, in selecting watersheds for the purposes of this section, shall be satisfied that the project area will not be affected

adversely by the influx of acid or other mine water pollution from nearby sources.

(d) Federal participation in such projects shall be subject to the conditions—

(1) that the State shall acquire any land or interests therein necessary for such project; and

(2) that the State shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

(e) There is authorized to be appropriated $30,000,000 to carry out the provisions of this section, which sum shall be available until expended.

POLLUTION CONTROL IN GREAT LAKES

SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other reduction and remedial techniques which will contribute substantially to effective and practical methods of pollution prevention, reduction, or elimination.

(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall pro-

vide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and in place sources of pollution, including bottom loads, sludge banks, and polluted harbor dredgings.

(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

TRAINING GRANTS AND CONTRACTS

SEC. 109. (a) The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works:

(B) training and retraining of faculty members;

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

(b)(1) The Administrator may pay 100 per centum of any additional cost of construction of a treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel *and for the costs of other State operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material.*

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability

of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator.

(3) The Administrator may make such grant out of the sums allocated to a State under section 205 of this Act, except that in no event shall the Federal cost of any such training facilities exceed [$250,000.] *$500,000.*

(4) The Administrator may exempt a grant under this section from any requirement under section 204 of this Act. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.

APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(2) The Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

(3)(A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time,

part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under paragraph (1).

AWARD OF SCHOLARSHIPS

SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

(A) provide an equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

(A) that such program has a principal objective, the education and training of persons in the operation and maintenance of treatment works;

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 110 of this Act; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Administrator shall (in addition to the stipends paid to persons under paragraph (1)) pay to the institution of higher educa-

tion at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

DEFINITIONS AND AUTHORIZATIONS

SEC. 112. (a) As used in sections 109 through 112 of this Act—

(1) The term "institution of higher education" means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(2) The term "academic year" means an academic year or its equivalent, as determined by the Administrator.

(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, *$25,000,000 for each of the fiscal years ending September 30, 1978 September 30, 1979, and September 30, 1980*, to carry out sections 109 through 112 of this Act.

ALASKA VILLAGE DEMONSTRATION PROJECTS

SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing

such safe water and such elimination or control of pollution for all native villages in such State.

(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

(c) The Administrator shall report to Congress not later than July 1, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

(d) There is authorized to be appropriated not to exceed $2,000,000 to carry out this section.

(e) The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

(f) The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) are implemented.

(g) There are authorized to be appropriated not to exceed $200,000 for the fiscal year ending September 30, 1978, and $220,000 for the fiscal year ending September 30, 1979, to carry out this section.

(h) For the purpose of this section, the term "village" shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term "sanitation services" shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.

LAKE TAHOE STUDY

SEC. 114. (a) The Administrator, in consultation with the Tahoe Regional Planning Agency, the Secretary of Agriculture, other Federal agencies, representatives of State and local governments, and members of the public, shall conduct a thorough and complete study on the adequacy of and need for extending Federal oversight and control in order to preserve the fragile ecology of Lake Tahoe.

(b) Such study shall include an examination of the interrelationships and responsibilities of the various agencies of the Federal Government and State and local governments with a view to establishing the necessity for redefinition of legal and other arrangements between these various governments, and making specific legislative recommendations to Congress. Such study shall consider the effect of various actions in terms of their environmental impact on the Tahoe Basin, treated as an ecosystem.

(c) The Administrator shall report on such study to Congress not later than one year after the date of enactment of this subsection.

(d) There is authorized to be appropriated to carry out this section not to exceed $500,000.

IN-PLACE TOXIC POLLUTANTS

SEC. 115. The Administrator is directed to identify the location of in-place pollutants with emphasis on toxic pollutants in harbors and navigable waterways and is authorized, acting through the Secretary of the Army, to make contracts for the removal and appropriate disposal of such materials from critical port and harbor areas. There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

SEC. 201. (a) It is the purpose of this title to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this Act.

(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) The Administrator shall encourage waste treatment management which combines "open space" and recreational considerations with such management.

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more existing individual primary residences or small commercial establishments where (1) a public body otherwise eligible for a grant under subsection (g) of this section applies on behalf of a number of such units and enters into an enforceable agreement with the Administrator to assure that such treatment works are properly operated and maintained and in compliance with all other requirements of section 204 of this Act and (2) the

Administrator determines that the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than with a system for collection and central treatment.

FEDERAL SHARE

SEC. 202. (a) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator). Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

(2) the State water pollution control agency or other appropriate State authority certifies that the quantity of available ground water will be insufficient, inadequate, or unsuitable for public use, including the ecological preservation and recreational use of surface water bodies, unless effluents from publicly-owned treatment works after adequate treatment are returned to the ground water consistent with acceptable technological standards.

(c) Notwithstanding any other provision of this title, after September 30, 1977, the Administrator shall approve grants only for that portion of a treatment works directly related to the needs to be served by such works for the ten years from the time such treatment works is estimated to become operational (or twenty years in the case of interceptor sewers and associated appurtenances) as determined by the Administrator. In determining the needs to be served by treatment works during such ten-year period the Administrator shall take into account the projected population and associated commercial and industrial establishments within the proposed service area within ten years of the time such treatment works is estimated to become operational. In determining the needs to be served by interceptor sewers and associated appurtenances during such twenty-year period the Administrator shall take into account the projected population and associated commercial

and industrial establishments within the proposed service area within twenty years of the time such interceptor sewers and associated appurtenances are estimated to become operational. For purposes of this paragraph population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator by regulation determines to be appropriate.

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(g)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the grantee municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works. In the case of States found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost does not exceed $3,000,000.

(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a great for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

(d) At the request of the grantee, the Administrator or the State may be made a party to any contract in connection with treatment works assisted under this title.

LIMITATIONS AND CONDITIONS

SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(g)(1) the Administrator shall determine—

(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act;

(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required [;], *after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The cost of such reserve capacity eligible for a grant under this Act shall be determined in accordance with section 202(c).*

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon preformance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal".

(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(g)(1) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction (*which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made*); and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. *A system of*

charges which meets the requirement of subparagraph (A) of this paragraph may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (i) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (ii) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the operation and maintenance of the treatment works.

(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users: (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

(3) The grantee shall retain an amount of the revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title as determined by the Administrator, equal to (A) the amount of the non-Federal cost of such project paid by the grantee plus (B) the amount, determined in accordance with regulations promulgated by the Administrator, necessary for *the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and* future expansion and reconstruction of the project, except that such retained amount shall not exceed 50 per centum of such revenues from such project. All revenues from such project not retained by the grantee shall be deposited by the Administrator in the Treasury as miscellaneous receipts. That portion of the revenues retained by the grantee attributable to clause (B) of the first sentence of this paragraph, together with any interest thereon shall be used solely for the purposes of future expansion and reconstruction of the project. *Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.*

(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

(5) The Administartor is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works of less than twenty-five hundred gallons per day if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of, such works.

ALLOTMENT

SEC. 205. (a) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after [June 30, 1972] *June 30, 1972 and before September 30, 1976,* shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of table III of House Public Works Committee Print No. 92–50. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

(b)(1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. *The sums first made available for obligation during fiscal year 1976 shall continue to be available for obligation until September 30, 1978.* Any amounts so allotted which are not obligated by the end of such [one-year] period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(c)(1) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1976, shall be allotted by the Administrator on October 1 of the fiscal year for which

authorized. Sums authorized for the fiscal year ending September 30, 1977, shall be alloted in accordance with the following table:

State	Proportional share	State	Proportional share
Alabama	0.0110	New Hampshire	0.0068
Alaska	.0048	New Jersey	.0480
Arizona	.0064	New Mexico	.0026
Arkansas	.0109	New York	.1062
California	.0831	North Carolina	.0209
Colorado	.0081	North Dakota	.0019
Connecticut	.0123	Ohio	.0560
Delaware	.0040	Oklahoma	.0136
District of Columbia	.0040	Oregon	.0084
Florida	.0361	Pennsylvania	.0471
Georgia	.0201	Rhode Island	.0040
Hawaii	.0070	South Carolina	.0132
Idaho	.0041	South Dakota	.0016
Illinois	.0526	Tennessee	.0150
Indiana	.0219	Texas	.0434
Iowa	.0111	Utah	.0051
Kansas	.0123	Vermont	.0022
Kentucky	.0151	Virginia	.0222
Louisiana	.0126	Washington	.0155
Maine	.0055	West Virginia	.0218
Maryland	.0382	Wisconsin	.0201
Massachusetts	.0279	Wyoming	.0012
Michigan	.0473	Virgin Islands	.0005
Minnesota	.0152	Puerto Rico	.0090
Mississippi	.0076	American Samoa	.0005
Missouri	.0200	Trust Territories	.0020
Montana	.0020	Guam	.0010
Nebraska	.0062		
Nevada	.0030	Total	1

Sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be alloted in accordance with the following table:

State	Proportional share	State	Proportional share
Alabama	0.0141	New Hampshire	0.0094
Alaska	.0030	New Jersey	.0328
Arizona	.0087	New Mexico	.0045
Arkansas	.0083	New York	.1014
California	.0833	North Carolina	.0214
Colorado	.0099	North Dakota	.0028
Connecticut	.0121	Ohio	.0679
Delaware	.0027	Oklahoma	.0106
District of Columbia	.0028	Oregon	.0128
Florida	.0328	Pennsylvania	.0464
Georgia	.0193	Rhode Island	.0056
Hawaii	.0071	South Carolina	.0110
Idaho	.0039	South Dakota	.0028
Illinois	.0577	Tennessee	.0163
Indiana	.0307	Texas	.0480
Iowa	.0112	Utah	.0047
Kansas	.0089	Vermont	.0035
Kentucky	.0133	Virginia	.0195
Louisiana	.0148	Washington	.0170
Maine	.0089	West Virginia	.0180
Maryland	.0199	Wisconsin	.0180
Massachusetts	.0291	Wyoming	.0014
Michigan	.0385	American Samoa	.0005
Minnesota	.0165	Guam	.0008
Mississippi	.0092	Puerto Rico	.0123
Missouri	.0281	Trust Territories	.0013
Montana	.0029	Virgin Islands	.0003
Nebraska	.0060		
Nevada	.0028	Total	1

If the sums alloted to the States for a fiscal year are made subject to a limitation on obligation by an appropriation Act, such limitation shall apply to each State in proportion to its allotment.

(2) For the fiscal years 1977, 1978, 1979, 1980, 1981, and 1982, no State shall receive less than one-half of 1 per centum of the total allotment under the first paragraph of this subsection, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories, not more than forty one-hundredths of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this paragraph there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $40,000,000 for the fiscal year ending September 30, 1977, and not to exceed $92,000,000 for each of fiscal years 1978, 1979, 1980, 1981, and 1982.

(d) (1) The Administrator may reserve an amount not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, but no less than $400,000 per fiscal year. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (b) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 201, 203, and 204 of this Act the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 402, administering a statewide waste treatment management planning program under section 208, and managing waste treatment construction grants for small communities.

(e) The Administrator shall set aside not less than 5 nor more than 10 per centum of the sums alloted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than 10 per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternative or unconventional sewage treatment works for communities having a population of two thousand five hundred or less, or for the highly dispersed sections of larger communities, as defined by the Administrator.

REIMBURSEMENT AND ADVANCED CONSTRUCTION

SEC. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1972, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the

requirements of section 8 of this Act in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 8 for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 8(f) of the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 percentum of the cost of such project.

(c) No publicly owned treatment works shall receive any payment or reimbursement under subsection (a) or (b) of this section unless an application for such assistance is filed with the Administrator within the one year period which begins on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Any application filed within such one year period may be revised from time to time, as may be necessary.

(d) The Administrator shall allocate to each qualified project under subsection (a) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation. The Administrator shall allocate to each qualified project under subsection (b) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation.

(e) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,000,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

(f)(1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

AUTHORIZATION

SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000[.], *for the fiscal year ending September 30, 1977, in addition to that appropriated in Public Law 95-26 and subject to such amounts as are provided in further appropriations Acts, $3,500,000,000, and for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, subject to such amounts as are provided in appropriation Acts, not to exceed $4,500,000,000.*

AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which,

as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

(4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected officials of local governments within an area may by agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

(5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

(6) The State shall act as a planning agency for all portions of such State which are not designated under paragraphs (2), (3), or (4) of this subsection.

(7) Designations under this subsection shall be subject to the approval of the Administrator.

(b)(1)(A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accord-

ance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a)(6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

(C) the establishment of a regulatory program to—

(i) implement the waste treatment management requirements of section 201(c),

(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carryout the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including *return flows from irrigated agriculture, and their cumulative effects,* runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and

(K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.

(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

[(4) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for application to all regions within such State.]

(4)(A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, including the application of best management practices under this paragraph, the requirements of subparagraphs (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to all areas and all such activities within such State.

(B) Any such program submitted under this paragraph shall include the following:

(i) designation of a management agency or agencies to implement the strategy for controlling the placement of dredged or fill material into the navigable waters;

(ii) a consultation process that includes the State agency with primary jurisdiction over fish and wildlife resources;

(iii) a process to identify and control the placement of dredged and fill material and other point and nonpoint sources of pollution that adversely affect wetlands and other critical aquatic resources;

(iv) a process for coordination with the Fish and Wildlife Service in the Department of the Interior, including a process for using and improving the National Wetland Inventory and the information that is a part thereof.

(C) Whenever the Governor obtains approval of a statewide regulatory program which requires best management practices for the placement and nonpoint source activities identified in subparagraphs (F) through (I) no permit, either general or specific, shall be required for such activities under section 404 or 402(l).

(D) Whenever there is a dispute with respect to a requirement for a permit under section 402 or section 404 for any activity included under an approved State regulatory program under this paragraph, the Administrator or the Secretary, as appropriate, shall be required to demonstrate that (i) the activity is, in fact, a discharge subject to section 402 or section 404 except for the application of this paragraph; (ii) the size and location of the activity is causing or is likely to cause a significant adverse environmental impact in the affected navigable waters, as identified in guidelines promulgated pursuant to section 404; and (iii) the applicable best management practices are insufficient to minimize any adverse environmental effect.

(E) (i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

(c) (1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or newly created local, regional, or State agency or political subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.

(2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority—

(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

(E) to raise revenues, including the assessment of waste treatment charges;

(F) to incur short- and long-term indebtedness;

(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

(I) to accept for treatment industrial wastes.

(d) After a waste treatment management agency having the authority required by subsection (c) has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(g)(1) within such area except to such designated agency and for works in conformity with such plan.

(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

[(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.]

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1978, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1) of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal[.], *subject to such amounts as are provided in appropriation Acts.* There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending

June 30, 1974, [and not to exceed $150,000,000 for the fiscal year ending June 30, 1975.] *and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1978, September 30, 1979, and September 30, 1980.*

(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

(i)(1) The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, with the concurrence of the Administrator, is authorized and directed to establish and administer a program to enter into contracts of not less than five years nor more than ten years with owners and operators having control of rural land, for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality soil conservation in those States or areas for which the Administrator has approved a plan under subsection (b) of this section where the practices to which the contracts apply are certified by the management agency designated under subsection (c)(1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 30, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district board or the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to

further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and measures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary may enter into agreements with soil conservation districts, State Soil and Water Conservation agencies or State Water Quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary.

(6) The contracts under this subsection shall be entered into only in areas where management agency designated under subsection (c) (1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas.

(7) The Secretary, in consultation with the Administrator and subject to section 304(k) of this Act, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566.

(9) There are hereby authorized to be appropriated $200,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other Public Law.

(j)(1) The Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, is authorized and directed to consult with, and provide technical assistance to any State or agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There are hereby authorized to be appropriated to the Secretary of the Interior $6,000,000 beginning in fiscal year 1978 to complete the National Wetland Inventory of the United States by December 31, 1978 and to provide information from this survey to such planning agencies as it becomes available to assist in the development and operation of such plans, including those that are administered by agencies designated by a Governor pursuant to subsection 208(b)(4)(A) of this section.

BASIN PLANNING

SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated under paragraphs (2), (3), and (4) of subsection (a) of section 208 of this Act.

(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

ANNUAL SURVEY

SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

SEWAGE COLLECTION SYSTEMS

[SEC. 211. No grant shall be made for a sewage collection system under this title unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 201 of this Act.]

SEC. 211. (a) No grant shall be made under this title for replacement or major rehabilitation of a sewage collection system unless such replacement or major rehabilitation is necessary (1) to the total integrity and performance of the waste treatment works serving such community, and (2) for grants made from funds authorized for any fiscal year beginning after September 30, 1977, as the most cost-effective alternative to eliminate excessive infiltration.

(b) No grant shall be made under this title for a new collector sewer system unless (1) such grant is limited to the capacity to serve the population in such community as of the date of enactment of the Clean Water Act of 1977; (2) there is or will be sufficient existing capacity to treat such collected sewage in compliance with sections 201 and 301 of this Act at the time such collector sewer system is completed; (3) such system is necessary to correct discharges constituting a threat to ground or surface water supplies or preventing the attainment of applicable water quality standards; and (4) alternatives to central treatment with collector sewers have been evaluated for such community and demonstrated to be less cost effective than the proposed collector sewer system in protecting ground or surface water quality.

(c) No grant shall be made under this title from funds authorized for any fiscal year beginning after September 30, 1977, for treatment works for control of pollutant discharges from separate storm sewer systems.

DEFINITIONS

SEC. 212. As used in this title—

(1) The term "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(2) (A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is

used for ultimate disposal of residues resulting from such treatment.

(B) In addition to the definition contained in subparagraph (A) of this paragraph, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

(3) The term "replacement" as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

COST-EFFECTIVENESS GUIDELINES

SEC. 213. Any guidelines for cost-effectiveness analysis published by the Administrator under this title shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of the Act and sections 201(b), 201(d), 201(g) (2) (A), and 301 (b) (2) (B) of the Act.

TITLE III—STANDARDS AND ENFORCEMENT

EFFLUENT LIMITATIONS

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved—

(1)(A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to

June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 510) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

(2)(A) not later than July 1, 1983, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(2) of this Act, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 315), that such elimination is technologically and economically achievable for a category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(2) of this Act, or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 307 of this Act; and

(B) not later than July 1, 1983, compliance by all publicly owned treatment works with the requirements set forth in section 201(g)(2)(A) of this Act.

(c) The Administrator may modify the requirements of subsection (b)(2)(A) of this section with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements (1) will represent the maximum use of technology within the economic capability of the owner or operator; and (2) will result in reasonable further progress toward the elimination of the discharge of pollutants[.]*: Provided, That the Administrator may not modify the requirements of subsection (b)(2)(A) of this section with respect to any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled National Resources Defense Council, Incorporated, et al., against Russell E. Train, or for which there is a primary drinking water stndard under the Safe Drinking Water Act.*

(d) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b)(2)(A) of this section with

respect to the discharge of any pollutant from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304 (a) (4) of this Act;

(2) such modified requirements will represent that reduction in effluents for which the reduction in effluents bears a reasonable relationship to the cost of attaining such reduction;

(3) such modified requirements will result at a minimum in compliance with the requirements of subsection (b) (1) (A) or (C) of this section, whichever is applicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(5) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water: Provided, That the Administrator may not modify the requirements of subsection (b) (2) (A) of this section with respect to any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 or 311 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled Natural Resources Defense Council, Incorporated, et al., against Russell E. Train, or for which there is a primary drinking water standard under the Safe Drinking Water Act.

(e) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b) (1) (B) of this section with respect to the discharge of any pollutant in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304 (a) (4) of this Act;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) such modified requirements will not result in any additional requirements on any other point or non-point source;

(4) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(5) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(6) any funds available to the owner of such treatment works

under title II of this Act will be used to achieve the degree of effluent reduction required by section 201 (b) and (g)(2)(A) or to carry out the requirements of this subsection.

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection and section 101(a)(2) of this Act.

(f) (1) Where major construction is required in order for a planned or existing publicly owned treatment works to achieve limitations under subsection (b)(1)(B) or (b)(1)(C) of this section, but (i) construction cannot reasonably be completed within the time required in such subsection, or (ii) financial assistance under this Act is unavailable in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within ninety days after enactment of this subsection. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available and construction can be completed, but in no event later than July 1, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations as he determines are necessary to carry out the provisions of this Act.

(2)(A) Where a point source, other than a publicly owned treatment works, will not achieve the requirements of subsections (b)(1)(A) and (b)(1)(C) of this section because a permit issued prior to July 1, 1977, to such point source contemplates a discharge into a publicly owned treatment works which is presently unable to accept such discharge without major construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within ninety days after enactment of this subsection or the filing of a request by the appropriate publicly owned works under paragraph (1) of this subsection whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the point source to achieve the requirements of subsections (b)(1)(A) and (C) of this section and shall contain such other terms and

conditions, including pretreatment and interim effluent limitations and water conservation requirements, as he determines are necessary to carry out the provisions of this Act.

"(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2)(A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1)(B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires it to meet all requirements under section 307 (a) and (b) during the period of such time modification.

[(d)] *(g)* Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

[(e)] *(h)* Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

[(f)] *(i)* Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

(j)(1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) under subsection (e) of this section shall be filed within nine months after the date of enactment of the Clean Water Act of 1977;

(B) subsection (b)(2)(A) shall be filed within nine months after the date of promulgation of an appropriate effluent guideline under section 304 or nine months after the date of enactment of the Clean Water Act of 1977, whichever is later.

(2) Any application for a modification filed under subsection (d) or subsection (e) of this section shall not operate to stay any requirement under this Act, unless in the judgment of the Administrator there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (b)(2)(A) the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection

(b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402) may establish a date for compliance under subsection (b)(2)(A) of this section no later than July 1, 1985, if he also determines that such innovative system has the potential for industrywide application.

WATER QUALITY RELATED EFFLUENT LIMITATIONS

SEC. 302. (a) Whenever, in the judgment of the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301 (b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

(b)(1) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic and social costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the Administrator shall adjust such limitation as it applies to such person.

(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act, as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution control Act Amendments of 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the

ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirments. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c)(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

(d)(1)(A) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 301 are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1)(B) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the loads established under paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later

than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into the current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1)(A) and (1)(B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation and for thermal discharges, at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish and wildlife.

(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable area-wide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Water quality standards relating to heat shall be consistent with the requirements of section 316 of this Act.

(h) For the purposes of this Act the term "water quality standards" includes thermal water quality standards.

INFORMATION AND GUIDELINES

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 303, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

(4) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annually thereafter, for purposes of section 301 (d) and (e) of this Act publish and revise as ap-

propriate information identifying each water quality standard in effect under this Act or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(5) *The Administrator, to the extent practicable before consideration of any request under section 301 (d) and (e) of this Act and within six months after enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection and propagation of balanced, indigenous populations of shellfish, fish, and wildlife, and to allow recreational activities, in and on the water.*

(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

(1) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b) (1) of section 301 of this Act shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(2) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b) (2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control

techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate; and

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

(c) The Administrator, after consultation, with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within 270 days after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b), (c), and (d) of this section for a category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307 or 311 of this Act or the order of the United States District Court for the District of Columbia issued on June 8, 1976, in the case entitled Natural Resources Defense Council, Incorporated, et al., against Russell E. Train," or for which there is a primary drinking water standard under the Safe Drinking Water Act, setting forth treatment requirements or operating techniques, processes, procedures, and methods, for measures and practices including but not limited to measures or practices affecting plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which he determines are associated with or ancillary to the industrial manufacturing or treatment process within such category or class of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable requirements or techniques estab-

lished under this subsection shall be included as a requirement for the purpose of sections 301, 302, 307, or 403 as appropriate in any permit issued to a point source pursuant to section 402 of this Act.

[(e)] (*f*) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

[(f)](*g*)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, *contaminates or reduces the utility of the sludge of*, or otherwise is incompatible with such works[.] *and such guidelines shall identify the degree of control attainable through the application of the best available technology.*

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works *and the classes or categories of sources potentially discharging into such treatment works*, to which the guidelines shall apply.

[(g)](*h*) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

[(h)](*i*) The Administrator shall (1) within sixty days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act, and (2) within sixty days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

[(i)](*j*) [The Administrator shall, within 270 days after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.] *The Administrator shall issue information biannually on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.*

[(j)(1) The Administrator shall, within six months from the date of enactment of this title, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974.]

(*k*)(*1*) *The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and other secretaries or independent agency heads, as he determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.*

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and to any secretary or independent agency head, as he determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection $100,000,000 per fiscal year for the fiscal years 1979 through 1983.

WATER QUALITY INVENTORY

SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before January 1, 1974, which shall—

(1) describe the specific quality, during 1973, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative annalysis of discharges) of pollutants, into all navigable waters and the waters of the contiguous zone; and

(3) identify specifically those navigable waters, the quality of which—

(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

(B) can reasonably be expected to attain such level by 1977 or 1983; and

(C) can reasonably be expected to attain such level by any later date.

(b)(1) Each State shall prepare and submit to the Administrator by [January 1, 1975, and shall bring up to date each year thereafter,] *April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter*, a report which shall include—

(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which pro-

vides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

(D) an estimate of (i) the environmental impact, (ii) the economic and social costs necessary to achieve the objective of this Act in such State, (iii) the economic and social benefits of such achievement, and (iv) an estimate of the date of such achievement; and

(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and [annually] *October 1, 1976, and biennally* thereafter.

NATIONAL STANDARDS OF PERFORMANCE

SEC. 306. (a) For purposes of this section:

(1) The term "standard of performance" means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

(2) The term "new source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

(3) The term "source" means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

(4) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a source.

(5) The term "construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

pulp and paper mills;
paperboard, builders paper and board mills;
meat product and rendering processing;
dairy product processing;
grain mills;

canned and preserved fruits and vegetables processing;
canned and preserved seafood processing;
sugar processing;
textile mills;
cement manufacturing;
feedlots;
electroplating;
organic chemicals manufacturing;
inorganic chemicals manufacturing;
plastic and synthetic materials manufacturing;
soap and detergent manufacturing;
fertilizer manufacturing;
petroleum refining;
iron and steel manufacturing;
nonferrous metals manufacturing;
phosphate manufacturing;
steam electric powerplants;
ferroalloy manufacturing;
leather tanning and finishing;
glass and asbestos manufacturing;
rubber processing; and
timber products processing.

(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration the cost of achieving such effluent reduction, and any non-water quality environmental impact and energy requirements.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

(3) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) Each State may develop and submit to the Administrator a procedure under State law for applying and enforcing standards of performance for new sources located in such State. If the Administrator finds that the procedure and the law of any State require the application and enforcement of standards of performance to at least the same extent as required by this section, such State is authorized

to apply and enforce such standards of performance (except with respect to new sources owned or operated by the United States).

(d) Notwithstanding any other provision of this Act, any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

(e) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

TOXIC AND PRETREATMENT EFFLUENT STANDARDS

[SEC. 307. (a) (1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

[(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

[(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.]

(a)(1) Whenever the Administrator determines, based upon information available to him, that an effluent standard should be established under this section for any toxic pollutant or combination of such pollutants (which standard may include a prohibition of the discharge of such pollutant or combination of such pollutants), the Administrator shall identify such pollutant or combination of pollutants by publication in the Federal Register. In making any such determination the Administrator shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under section 301 of this Act or other regulatory authority.

(2) Within one hundred and eighty days after the date of identification by publication of any toxic pollutant or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under section 301 of this Act or other regulatory authority. The Administrator shall allow a period of not less than sixty days following any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standards. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standards, the Administrator shall promulgate such standards (or prohibition) with such modifications as he finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standards.

"(3) Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.".

(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply. Any disposal of dredged material may be included in such a category of sources after consultation with the Secretary of the Army.

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation[.]: *"Provided, That if the Administrator determines that compliance within one year is technologically infeasible for a category of sources and the owners or operators of such sources demonstrate to the satisfaction of the Administrator that there will be no significant risk to public health, public water supplies, or the environment from an extended time for compliance, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.*

(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works[.]*or which would contaminate the sludge from such treatment works or otherwise reduce the utility of such sludge.* Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, *contaminates or reduces the utility of the sludge of*, or otherwise is incompatible with such works. *Such pretreatment standards shall require at a minimum the application of the best available technology.*

(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

(5) *A program to assure compliance with pretreatment standards under this section shall be a condition on any grant made under title II of this Act and any permit to a publicly owned treatment works under section 402 of this Act.*

(c) In order to insure that any source introducing pollutants into a publicly owned treatment works, which source would be a new source subject to section 306 if it were to discharge pollutants, will not cause a violation of the effluent limitations established for any such treatment works, the Administrator shall promulgate pretreatment standards for the category of such sources simultaneously with the promulgation of standards of performance under section 306 for the equivalent category of new sources. Such pretreatment standards shall prevent the discharge of any pollutant into such treatment works, which pollutant may interfere with, pass through, *contaminate or reduce the utility of the sludge of*, or otherwise be incompatible with such works[.] , *and such standards shall require at a minimum the application of the best available technology.*

(d) After the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

INSPECTIONS, MONITORING AND ENTRY

SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

(B) the Administrator or his authorized representative, upon presentation of his credentials—

(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(b) Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance

standards, and (2) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

(c) Each State may develop and submit to the Administrator procedures under State law for inspection, monitoring, and entry with respect to point sources located in such State. If the Administrator finds that the procedures and the law of any State relating to inspection, monitoring, and entry are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such State (except with respect to point sources owned or operated by the United States).

FEDERAL ENFORCEMENT

SEC. 309. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, [or 308] *308, 318, or 405* of this Act in a permit issued by a State under an approved permit program under section 402 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), the Administrator shall enforce any permit condition or limitation with respect to any person—

(A) by issuing an order to comply with such condition or limitation, [or]

(B) by bringing a civil action under subsection (b) of this section [.] *or*

(C) by granting an extension pursuant to paragraph (5)(B) of this subsection.

(3) Whenever, on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, [or 308] *308, 318, or 405* of this Act, or is in violation of any permit condition or limitation implementing any of such section in a permit issued under section 402 of this Act by him or by a State, *or any person who willfully or negligently violates any order issued under subsection (a) of this section,* he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. [Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.] In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

(5)(A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(B) The Administrator may, if he determines that such violation is the result of actions or conditions outside the control of such person and (i) such person has acted in good faith; (ii) such person has made a commitment (in the form of contracts or other security) of necessary resources to achieve compliance at the earliest possible date after July 1, 1977, but in no event later than January 1, 1979; (iii) such extension will not result in imposition of any additional controls on any other point or nonpoint source; (iv) application for permits under section 402 of this Act was filed prior to December 31, 1974; and (v) the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 301(b)(1)(A) to a date which will achieve compliance at the earliest time possible but not later than January 1, 1979.

(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the dis-

strict in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(c)(1) Any person who willfully or negligently violates section 301, 302, 306, 307, [or 308] *308, 318, or 405* of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, *or any person who willfully or negligently violates any order issued under subsection (a) of this section,* shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(3) For the purposes of this subsection, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

(d) Any person who violates section 301, 302, 306, 307, [or 308] *308, 318, or 405* of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

(f) Any person who introduces or discharges any pollutant subject to a pretreatment standard under section 307(b) of this Act into a publicly owned treatment works shall immediately notify such treatment works, the State, and the Administrator. Any such person who fails to notify immediately such treatment works, the State, or the Administrator, or who fails to provide the information or notice required under section 402(b)(8) of this Act, shall be subject to a civil penalty not to exceed $10,000.

INTERNATIONAL POLLUTION ABATEMENT

SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has

reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this

section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

(e) Board members, other than officers or employees of Federal, State, or local governments, shall be for each day (including travel-time) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

OIL AND HAZARDOUS SUBSTANCE LIABILITY

SEC. 311. (a) For the purpose of this section, the term—

(1) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(3) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) "public vessel" means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, Amer-

ican Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment.

(7) "person" includes an individual, firm, corporation, association, and a partnership;

(8) "remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(9) "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

(12) "act of God" means an act occasioned by an unanticipated grave natural disaster.

(13) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(14) "hazardous substance" means any substance designated pursuant to subsection (b) (2) of this section.

(b) (1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone[.], *or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act) or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976.*

(2) (A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, *or the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act) or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976*, present an imminent and substantial danger to the public health

or welfare. including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B) (i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance can actually be removed.

(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged during the two-year period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate, to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and dispersal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and dispersal characteristics of such substance.

(iii) After the expiration of the two-year period referred to in clause (ii) of this subparagraph, the owner or operator of any vessel onshore facility, or offshore facility, from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided in subsection (f) of this section, to the United States for either one or the other of the following penalties, the determination of which shall be in the discretion of the Administrator:

(aa) a penalty in such amount as the Administrator shall establish, based on the toxicity, degradability, and dispersal characteristics of the substance, but not less than $500 nor more than $5,000; or

(bb) a penalty determined by the number of units discharged multiplied by the amount established for such unit under clause (iv) of this subparagraph, but such penalty shall not be more than $5,000,000 in the case of a discharge from a vessel and $500,000 in the case of a discharge from an onshore or offshore facility.

(iv) The Administrator shall establish by regulation, for each hazardous substance designated under subparagraph (A) of this paragraph, and within 180 days of the date of such designation, a unit of measurement based upon the usual trade practice and, for the purpose of determining the penalty under clause (iii) (bb) of this subparagraph, shall establish for each such unit a fixed monetary amount which shall be not less than $100 nor more than $1,000 per unit. He shall establish such fixed amount based on the toxicity, degradability, and dispersal characteristics of the substance.

(v) In addition to establishing a penalty for the discharge of a hazardous substance determined not to be removable pursuant to clauses (ii) through (iv) of this subparagraph, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost

incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, *or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or into or upon the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976*, in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. [except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.]

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the

amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vesssel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(c)(1) Whenever any oil or a hazardous substance is discharged, *or there is a substantial threat of such discharge*, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, *or into or upon the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or into or upon the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976*, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

(B) identification, procurement, maintenance, and storage of equipment and supplies;

(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances [to the appropriate Federal agency;] *and imminent threats of such discharges to the appropriate State and Federal agencies;*

(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters; and

(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Whenever a marine disaster in or upon the navigable waters of the United States, *the waters of the contiguous zone, the waters above the Outer Continental Shelf (as defined in the Outer Continental Shelf Lands Act), or the waters over which the United States asserts exclusive fisheries management under the Fishery Conservation and Management Act of 1976*, has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)[(2)] of this section shall, not withstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed [$100 per gross ton of such vessel or $14,00,000, whichever is lesser,] *$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is greater)*, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)[(2)] of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed [$8,000,000,] *$50,000,000* except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)[(2)] of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Gov-

ernment, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)[(2)] of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed [$8,000,000,] *$50,000* except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) *The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or hazardous substance in violation of subsection (b) of this section.*

"(5) *The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.*

(g) *Where the owner or operator of a vessel carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk; from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection.* In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)[(2)] of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission

was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)[(2)] of this section, the liability of such third party under this subsection shall not exceed [$100 per gross ton of such vessel or $14,000,000, whichever is the lesser.] *$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is the greater)*. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)[(2)] of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) The United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)[(2)] of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the funds established pursuant to subsection (k).

(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharge oil and hazardous substances, (B) establishing criteria for the development and implementation of local

and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility for an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands.

In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of [$100 per gross ton, or $14,000,000 whichever is the lesser,] *$150 per gross ton, (or, for a vessel carrying oil or hazardous substances as cargo, $500,000, whichever is the greater)* to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of

financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the olaimant, and which would have been available to him if an action had been brought against him by the owner or operator.

(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be subject to a fine of not more than $10,000.

(5) The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States, as amended (4 U.S.C. 91), to any vessel subject to this subsection, which does not have evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(6) The Secretary of the Department in which the Coast Guard is operated may (A) deny entry to any port or place in the United States or the navigable waters of the United States to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection, which upon request, does not produce evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

MARINE SANTATION DEVICES

SEC. 312. (a) For the purpose of this section, the term—

(1) "new vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

(2) "existing vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(4) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa the Canal Zone, and the Trust Territory of the Pacific Islands;

(5) "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive. retain, treat, or discharge sewage, and any process to treat such sewage;

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes *except that, with respect to commercial vessels on the Great*

Lakes and the navigable waters generally (other than the territorial seas, such term shall include greywater;

(7) "manufacturer" means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

(9) "discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c)(1)(*A*) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(*B*) *The Administrator shall, with respect to commercial vessels on the Great Lakes and the navigable waters generally (other than the territorial seas), establish standards and regulations which require at a minimum, the equivalent of secondary treatment as defined under section 304(d) of this Act. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.*

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devises on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

(f)(1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with repect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4)(*A*) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified

waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Whenever a State requests a prohibition on the discharge of sewage from vessels in any drinking water intake zone, the Administrator shall promulgate such a prohibition for such zone.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Cost Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for

sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g) (1) of this section and subsections (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5.000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opoprtunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement. with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessel. (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute

any warrant or other process issued by an officer or court of competent jurisdiction.

(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

FEDERAL FACILITIES POLLUTION CONTROL

SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall [comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges.] *be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of pollution in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States nor any agent, employee, nor office thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of such injunctive relief.* The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

CLEAN LAKES

SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section. *The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a) (1) of this section.*

(c) (1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; [and $150,000,000 for the fiscal year 1975], *$150,000,000 for the fiscal year 1975; and $150,000,000 for each of fiscal years 1978, 1979, and 1980*" for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

NATIONAL STUDY COMMISSION

SEC. 315. (a) There is established a National Study Commission, which shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in section 301(b)(2) of this Act.

(b) Such Commission shall be composed of fifteen members, including five members of the Senate, who are members of the Public Works committee, appointed by the President of the Senate, five members of the House, who are members of the Public Works committee, appointed by the Speaker of the House, and five members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(c) In the conduct of such study, the Commission is authorized to contract with the National Academy of Sciences and the National Academy of Engineering (acting through the National Research Council), the National Institute of Ecology, Brookings Institution, and other nongovernmental entities, for the investigation of matters within their competence.

(d) The heads of the departments, agencies and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(e) A report shall be submitted to the Congress of the results of

such investigation and study, together with recommendations, not later than three years after the date of enactment of this title.

(f) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(g) There is authorized to be appropriated, for use in carrying out this section, not to exceed $15,000,000.

THERMAL DISCHARGES

SEC. 316. (a) With respect to any point source otherwise subject to the provisions of section 301 or section 306 of this Act, whenever the owner or operator or any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the projection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections for such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on that body of water.

(b) Any standard established pursuant to section 301 or section 306 of this Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) Notwithstanding any other provision of this Act, any point source of a discharge having a thermal component, the modification of which point source is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which, as modified, meets effluent limitations established under section 301 or, if more stringent, effluent limitations established under section 303 and which effluent limitations will assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

FINANCING STUDY

SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

AQUACULTURE

[SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.]

SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 402 of this Act.

(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

(c) Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objectives of this Act.

NONCOMPLIANCE FEE

Sec. 319. (a) A noncompliance fee established pursuant to this section shall be imposed automatically and payable to the Administrator or a State with an approved program under section 402, as appropriate, either quarterly or monthly, for any point source (other than a publicly owned treatment works) which is not in compliance on or after (1) July 1, 1979, with any effluent limitation or standard under section 301(b)(1), 306, 307, or 316 of this Act, or (2) January 1, 1984,

with any effluent limitation or standard under section 301(b)(2), 302, or 307 of this Act. Any permit issued under section 402 of his Act for such source shall be amended to incorporate such fee requirements.

(b)(1) The owner or operator of any such point source for which the Administrator or a State with an approved program under section 402 intends to impose a noncompliance fee under this section shall upon request by the Administrator or the State furnish to the Administrator or the State (with a copy to the Administrator) information containing a detailed description of the control technology or system proposed to achieve compliance with such effluent limitation or standard and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply with such limitation or standard, and the estimated annual costs of operation and maintenance of any technology or system required in order to maintain such compliance, together with such information as the State (or the Administrator) may require on the economic value which a delay in compliance beyond July 1, 1979, or January 1, 1984, as the case may be, may have for the owner or operator of such source.

(2) The Administrator or the State shall issue specific notice to the owner or operator of a point source subject to this section requiring the information described in this subsection. If the owner or operator of any source subject to this section fails to submit a calculation of the fee assessment, a schedule for payment, and the information necessary for independent verification thereof, the State (or the Administrator, as the case may be) may enter into a contract with any person who has no financial interest in the owner or operator of the source or in any person controlling, controlled by, or under common control with such source) to assist in determining the amount of the fee assessment or payment schedule with respect to such source. The cost of carrying out such contract may be added to the penalty to be assessed against the owner or operator of such source. In addition, the State or the Administrator, as appropriate, may use cost information developed under section 304(b) of this Act.

(c)(1) A notice of receipt of information pursuant to subsection (b) of this section shall be published in the newspapers in general circulation in such State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

(2)(A) Within thirty days following the date of publication of the notice issued under paragraph (1) of this subsection, or at any time the Administrator or a State with an approved program under section 402 proposes to establish a noncompliance fee under this section, there shall be published in the newspapers in general circulation in such State (and, as appropriate, the Federal Register or any publication required as part of any rulemaking activity in such State) the proposed noncompliance fee applicable to the source with an announcement of an opportunity for a public hearing on such action.

(B) A proposed noncompliance fee under this section, determined in accordance with guidelines published by the Administrator, shall be a monthly or quarterly payment in an amount no less than the monthly or quarterly equivalent of the economic value of noncom-

pliance, including, but not limited to, planning costs, design costs, supply costs, capital costs and costs of capital over a normal amortization period not to exceed ten years, start-up costs, operation and maintenance costs, and such other factors deemed appropriate by the Administrator relating to the economic value which a delay in compliance beyond July 1, 1977, or January 1, 1984, as the case may be, or such other date required for compliance, or any other noncompliance, may have for the owner or operator of such source.

(C) The Administrator or the State shall take final action establishing such noncompliance fee within ninety days after the date of publication of the proposed fee under subparagraph (A) of this paragraph.

(d)(1) A noncompliance fee established by a State under this section shall apply unless the Administrator, within sixty days after the date of publication of the proposed fee under subsection (c)(2)(A) of this section, objects in writing to the amount of the fee as less than would be required to comply with guidelines established by the Administrator.

(2) If the Administrator objects under this subsection, he shall simultaneously establish a substitute noncompliance fee applicable to such source in accordance with the requirements of subsection (c) of this section.

(e)(1) In the event an owner or operator contests the noncompliance fee established under this section, the owner or operator may within thirty days seek review of such penalty in the appropriate United States district court.

(2)(A) Except as provided in subparagraph (B) of this paragraph, in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a source to commence monthly payment of the noncompliance fee as determined by the Administrator or the State on the date established to begin such payment, pending the outcome of any such review.

(B) In any challenge of the imposition of the fee based on an allegation that the failure to comply by such date was due to reasons entirely beyond the control of the owner or operator and there is a substantial likelihood that the owner or operator will prevail on the merits, the obligation to commence monthly payment of the noncompliance fee may be stayed pending the outcome of such challenge: Provided, That as a condition of such stay, the owner or operator of such source shall post a bond or other surety in an amount equal to the potential liability for such fee during the period of the stay.

(3) If an owner or operator is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

(f) In any case where a State does not have sufficient authority to issue a noncompliance fee, the Administrator after thirty days' notice to the State shall establish, implement, and enforce such fee.

(g) Failure to make any payment required under this section or to submit information required under this section shall constitute a violation of this section and section 301 and shall, in addition to lia-

bility for such payments, subject the owner or operator of a source to all penalties under section 309 of this Act.

(h) Any payments or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way effect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

(i) Upon making a determination that a source with respect to which a fee has been paid under this section is in compliance and is maintaining compliance with the applicable requirement, the State (or the Administrator as the case may be) shall review the actual expenditures made by the owner or operator of such source for the purpose of attaining and maintaining compliance, and shall within 180 days after such source comes into compliance—

(A) provide reimbursement with interest (to be paid by the State or Secretary of the Treasury, as the case may be) at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any overpayment by such person, or

(B) assess and collect an additional payment with interest at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any underpayment by such person.

TITLE IV—PERMITS AND LICENSES

CERTIFICATION

SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, *303*, 306, and 307 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence.

No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions sections 301, 302, *303*, 306, and 307 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, *303*, 306, or 307 of this Act.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has

been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, *303*, 306, or 307 of this Act.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, *303*, 306, or 307 of this Act.

[(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.]

[(7)] *(6)* Except with respect to a permit issued under section 402 of this Act, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys

received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the

date of the first promulgation of guidelines required by section 304 (h) (2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (h) (2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide a opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the

Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require *the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to* adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducting pollutants into such works at the time of issuance of the permit. *Any requirement imposed on a source introducing pollutants into such treatment works by a program under this paragraph shall be deemed a permit condition applicable to such source and enforceable against such source under section 309 or 505 of this Act.* Such notice shall include information on the quality and quantity of effluent to be intoduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a

reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) Where the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, the Administrator may simultaneously issue a permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act. Nothing in this subsection shall modify the provisions of section 510 of this Act, and any permit issued under this paragraph shall be subject to the State's refusal to certify such permit under section 401 of this Act for a period of sixty days after such issuance.

(e) In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved[,] *or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program*

has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion therof, shall further be available on request for the purpose of reproduction.

(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l)(1) At any time after the publication of guidelines under paragraph (4) of this subsection, the Governor of each State desiring to administer the permit program for controlling discharges of dredged or fill material into the navigable waters specified in paragraph (5) of this subsection may seek approval of its program in accordance with subsection (b) of this section.

(2) The Administrator, in consultation with the Secretary of the Army and the Director of the Fish and Wildlife Service, shall approve each such program within one hundred and eighty days of submission unless he determines that (A) the State does not have adequate authority in accordance with subsection (b) of this section with respect to discharges of dredged or fill material; or (B) it does not contain guidelines comparable to or more stringent than those under section 404(b)(1) of this Act or is not in accordance with guidelines adopted pursuant to paragraph (2) of this subsection.

(3) Any State program approved under this subsection shall be subject to provisions of subsections (c) through (k) of this section. Approval of a program otherwise submitted under subsection (b) of this section or operation of a program approved under subsection (b) shall not be delayed by submittal of a program under this paragraph.

(4)(A) Within one hundred and eighty days after enactment of the Clean Water Act of 1977, the Administrator, in consultation with the Secretary of the Army and the heads of other appropriate Federal agencies, shall amend the guidelines required by subsection (h)(2) of section 304 of this Act to establish minimum procedural and other elements of any State program for discharges of dredged or fill material including but not limited to guidelines for—

(i) State review and coordination of interstate, State, regional, and local agencies which administer portions of any State program for discharges of dredged or fill material;

(ii) program coverage of the navigable waters specified in paragraph (5) of this subsection through the use of vegetation or other appropriate criteria;

(iii) continued coordination with Federal and Federal-State water-related planning and review requirements; and

(iv) identification of and testing for toxic pollutants in dredge or fill material, including methods for determining whether or not any discharge requires a permit pursuant to section 307(a) or is otherwise subject to section 307(a) or 311 of this Act.

(B) A State program for discharges of dredged or fill material may include—

(A) designation of one or more interstate, State, regional, or local agencies with jurisdiction over a defined geographic area and with sufficient authority, expertise, and resources to administer a program for discharges of dredged or fill material;

(B) mapping, protective orders, standards of performance, or other techniques to assist in the review of proposed discharges of dredged or fill material.

(5) State programs for discharges of dredged or fill material that are subject to approval under this subsection shall include all navigable waters within the State except any coastal waters of the United States subject to the ebb and flow of the tide, including any adjacent marshes, shallows, swamps, and mudflats, and any inland waters of the United States that are used, have been used or are susceptible to use for transport of interstate or foreign commerce, including any adjacent marshes, shallows, swamps, and mudflats.

(6) Upon approval by the Administrator of a State program pursuant to this subsection, the issuance of permits under section 404(a) of this Act shall be suspended as to those discharges subject to the approved program.

(7) In the case of a State with a program approved under this subsection, the Administrator may object to the issuance of a permit under subsection (d)(2) of this section only where such permit is clearly outside the guidelines and requirements of this section and section 404 and where the Administrator provides a written statement of the reasons for such objection.

(8) Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof or interstate agency to regulate, pursuant to other authorities, activities in the navigable waters within the jurisdiction of such State, political subdivision, or agency.

(m) No permit under this section shall be required for discharges composed entirely of return flows from irrigated agriculture.".

OCEAN DISCHARGE CRITERIA

SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 402 if the Administrator determines it to be in the public interest.

(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

(D) the persistence and permanence of the effects of disposal of pollutants;

(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1)

alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary of the Army. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) At any time after the enactment of the Clean Water Act of 1977 a State may assume the authority of the Secretary of the Army under this section in accordance with section 402(l) for the navigable waters within such State other than as specified in section 402(l)(5).

"(e)(1) For the purposes of this section and section 402 the placement of dredged or fill material into the navigable waters shall not be required to have a permit where such placement—

(A) results from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) involves any other activities identified in section 208(b)(2)(F) through (J) for which a State has adopted and obtained approval of a regulatory program under section 208(b)(4) for all such placement and nonpoint source activities throughout such State which applies best management practices for such activities;

(C) involves maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(D) involves construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance or drainage ditches;

(E) involves construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters; or

(F) involves construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized.

(2) Nothing in paragraph (1) of this subsection shall be construed to limit or affect the ability of a State or designated management

agency to control such activities under sections 208 and 303 (d) and (e) of this Act.

(3) Any discharge of dredged or fill material into the navigable waters incidental to the construction of a dike or other activity for the purpose of bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section or section 402 of this Act.

(4) Any placement of dredged or fill material containing toxic pollutants into the navigable waters shall be required to have a permit under this section or section 402 of the Act, and to be in compliance with sections 301, 307(a), 403, and 404 (b)(1) and (c) of this Act.

(f)(1) Consistent with the requirements of this section and section 208, the Secretary of the Army under this section, or a State with a permit program approved under section 402(l) may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis, as appropriate, for classes or categories of discharges of dredged or fill material if the Secretary or the State determines that the discharges in the class or category are similar in nature, cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.

(2) Any such general permit issued under this subsection shall be in lieu of individual permits required under this section (or section 402(l)). Such general permits shall be conditioned on compliance with (A) specific requirements or standards, including State standards or management practices for the activity authorized by such general permit, and (B) the guidelines under subsection (b)(1) of this section.

(3) Any general permit shall be for a maximum period of three years and shall be subject to being revoked or modified, after opportunity for public hearing, if the requirements of this paragraph are not being complied with, or if the activities authorized by such general permit may have an effect which is more appropriate for consideration in individual permits.

(g)(1) The notice required in subsection (a) of this section shall be distributed by the Chief of Engineers not later than fifteen days following submission by an applicant of all information required to complete an application for a permit.

(2) The Secretary shall, within six months after the date of enactment of the Clean Water Act of 1977, enter into agreements with the Administrator, and the Secretaries of Agriculture, Commerce, Interior, and Transportation and heads of other appropriate Federal agencies to minimize to the maximum extent possible duplication, needless paperwork and delays in the issuance of permits under this section. Such agreements shall be developed to insure that, to the maximum extent practicable, a decision in an application for a permit will be made not more than seventy-five days after publication of the notice specified in paragraph (1).

(h) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof or interstate agency to control the discharge of dredged or fill material in any portion of the naviga-

ble waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State, local, or interstate requirements both substantive and procedural to control the discharge or dredged or fill material to the same extent that any person is subject to such requirements.

DISPOSAL OF SEWAGE SLUDGE

SEC. 405. (a) Notwithstanding any other provision of this Act or of any other law, in any case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 212 of this Act (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under [this section.] *under section 402 of this Act.*

(b) The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to this section [.] *and section 402 of this Act.*

Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

(c) Each State desiring to administer its own permit program for disposal of sewage sludge within its jurdiction may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this Act.

TITLE V—GENERAL PROVISIONS

ADMINISTRATION

SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

(3) The President of the United States, the Governor of the appriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

GENERAL DEFINITIONS

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) The term "State water pollution control agency" means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

(5) The term "person" means an individual, corportaion, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) the term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical

wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels" within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term "navigable waters" means the waters of the United States, including the territorial seas.

(8) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(11) The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term "discharge of a pollutant" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term "toxic pollutants" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavorial abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring.

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(15) The term "biological monitoring" shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms

representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term "discharge" when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as maended and supplemented, under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 503. (a) (1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various Sate, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

(2) (A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of

subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

EMERGENCY POWERS

SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any persons causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

CITIZEN SUITS

SEC. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309 (d) of this Act.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 306 and 307(a) of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) (1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) For purposes of this section, the term "effluent standard or limitation under this Act" means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act: (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standards under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement appilcable by reason of section 313 of this Act).

(g) For the purposes of this section the term "citizen" means a person or persons having an interest which is or may be adversely affected.

(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

APPEARANCE

SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable

time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

EMPLOYEE PROTECTION

SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, or any other prohibition or limitation established under this Act.

(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearings shall be of record and shall be suject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act.

FEDERAL PROCUREMENT

SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309 (c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 509. (a)(1) For purposes of obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under sections 304 (b) and (c) of this Act. Any papers, books, documents, or other information or part thereof, obtained by reason of such a subpena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b)(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b)(1)(C), (C) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (F) in issuing or denying any permit under section 402, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days

from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such ninetieth day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

OTHER AFFECTED AUTHORITY

SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and

the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c)(1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

SEPARABILITY

SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

LABOR STANDARDS

SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

PUBLIC HEALTH AGENCY COORDINATION

SEC. 514. The permitting agency under section 402 shall assist the applicant for a permit under such section in coordinating the requirements of this Act with those of the appropriate public health agencies.

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

SEC. 515. (a)(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304(b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code.

(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

REPORTS TO CONGRESS

SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, area-wide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303 (e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a detailed estimate biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (3) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (4) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment work operations. The report shall include (1) the status of

any projects funded under this Act to address combined sewer overflows, (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of $4,500,000,000, to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 104 and 105 of this Act, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage or require the expanded utilization of sludge for agricultural and other purposes.

GENERAL AUTHORIZATION

SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and [$350,000,000 for the fiscal year ending June 30, 1975.] *, $350,000,000 for the fiscal year ending June 30, 1975, and $350,000,000 for each of the fiscal years ending September 30, 1979, and September 30, 1980,*

SHORT TITLE

SEC. 518. This Act may be cited as the "Federal Water Pollution Control Act."

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