THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

Supplement I
Volume I
Water

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JANUARY 1973

WILLIAM D. RUCKELSHAUS
Administrator

U.S. Environmental Protection Agency

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U.S. Environmental Protection Agency

FOREWORD

No nation in the history of the world has ever developed as fast as the United States. Starting virtually from scratch, we created in one century the world's first industrial society on a continental scale. Since we derived such great benefits from the exploitation of natural resources, it is not surprising that we equated all forms of growth with progress.

Today, however, there is a new mood in this country. We are disposed to look more carefully at our past assumptions, including those which brought us wealth, comfort, and convenience. We have learned a great deal, especially in the last decade. We have acquired a more comprehensive perception of the problems of modern society and how persistent and intractable they can be. But these problems are not beyond solution. They give way before ingenuity, perseverance, and mutual cooperation.

I think this nation is well on its way to a new era of environmental stewardship. We are beginning to realize that the earth itself, the whole biosphere, is an environment from which we cannot insulate ourselves. We are learning that while we may alter that environment, we must also be prepared to protect it and to foresee the full effects of our actions on tomorrow's world.

When future historians look back on this period, they should say it was an age of enlightenment when man first understood that his limitless capacity to innovate always takes place within nature, not outside it, and that preserving the life systems of the earth is his most sacred task.

It will take decades of heavy investment, generations of strenuous effort, and many hard years of learning to live with new habits and imperatives. But in the end we shall restore the earth—not perhaps to what it was in the past, for the past is unrecoverable— but to a new condition of wholeness, where man may live in peace.

Such a world is ours for the making.

WILLIAM D. RUCKELSHAUS
Administrator
U.S. Environmental Protection Agency

PREFACE

Reorganization Plan No. 3 of 1970 transferred 15 governmental units with their functions and legal authority to create the U.S. Environmental Protection Agency. Since only the major laws were cited in the Plan, the Administrator, William D. Ruckelshaus, requested that a compilation of EPA legal authority be researched and published.

The publication has the primary function of providing a working document for the Agency itself. Secondarily, it will serve as a research tool for the public.

This particular volume, which constitutes the first supplement, is a product of a permanent office in the Office of Legislation, established to perform the updating function.

It is the hope of EPA that this set will assist in the awesome task of developing a better environment.

MARY LANE REED WARD GENTRY, J.D.
Assistant Director, Office of Field Operations
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2–EPA

INSTRUCTIONS

This new publication is intended to do two things. It is designed first to update the EPA Legal Compilation, which first appeared in 1973. But it is also intended to stand alone as a collection and presentation in one document of the text and legislative history of the *major* environmental legislation enacted during the Second Session of the 92d Congress.

In the first instance, for those using this publication in conjunction with the Compilation, the point system employed there will be continued here. Although in that work at each solely numerical point (1.1, 1.2, etc.) the complete then current text of the pertinent statutes was provided, in this publication ONLY the *public law text* of the latest amendment will be used because the new legislation has not yet been codified. The public law texts appear at the appropriate numerical-alphabetical point (1.32a, 1.2r, etc.) of the legislative history.

For those using this publication as an independent document, the Table of Contents has a listing of the materials included by specific environmental area.

Finally, this work is intended for general legal reference and information, not as one which may be formally cited in the legal sense, and the author disclaims responsibility for liability arising from its use. In this connection, it should be noted that the many quotations from the Congressional Record for the 92nd Congress were taken from the "unofficial" daily version which is subject to subsequent modification by the Members prior to the publication of the final official record, not available at this time.

From the outset, our concern was to make this important material available to the public as quickly as possible and we recognized that in order to accomplish this, we would have to diminish its official character to some extent. We think that it was a fair trade-off.

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1.2 FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

33 U.S.C. § 1251 et seq.

(Since the latest amendments have not been codified, see 1.2p *for text*)

1.2p FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

October 18, 1972, P.L. 92-500, 86 Stat. 816

An Act

To amend the Federal Water Pollution Control Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"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 navigation, salt water intrusion, recreation, esthetics, and fish and wildlife, shall be determined by the Corps 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 Secretary 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

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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 of 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. 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 methods 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.

"(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-effec-

tiveness 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, and the fiscal year ending June 30, 1974, 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 year 1973 for carrying out the provisions of subsection (g) (1); (3) not to exceed $2,500,000 for fiscal year 1973 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, and June 30, 1974, 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, and June 30, 1974, 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, and June 30, 1974, 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

"(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) or (2) of subsection (a).

"(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).

"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;

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,

which ever 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 provision 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.

"(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 affecting 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 provide 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.

"(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.

"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 treat-

ment 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 education 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, and June 30, 1974, 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.

"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.

"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.

"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.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant 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.

"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 comformity 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;

"(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 performance, 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; 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.

"(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

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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 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.

"(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.

"ALLOTMENT

"SEC. 205. (a) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, 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. 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.

"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 per centum 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 pay ...nt 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.

"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) 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 accordance 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.

"(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 pur-

poses; 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 carry out 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 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.

"(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.

"(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. There is authorizd 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.

"(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 designed 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.

"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.

"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.

"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.

"(d) 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) 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) 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.

"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 requirements. 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 its 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.

"(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, 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)(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, or otherwise is incompatible with such works.

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"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) 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) 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) 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.

"(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.

"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 analysis 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, 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 provides 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 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 alterna-

tives, 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 technol-

ogy 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.

"(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.

"(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. 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, or otherwise is incompatible with such works.

"(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.

"(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, or otherwise be incompatible with such works.

"(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 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.

"(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 of this Act, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by him or by a State, 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.

"(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 district 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 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, 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 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.

"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, American 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.

"(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, 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.

"(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 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 vessel 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, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, 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;

"(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, iden-

tify 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 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 $14,000,000, whichever is lesser, 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, 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 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, 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, 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.

"(g) 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. 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 discharged 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

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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 or 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 attemping 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, 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 claimant, 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 sub-

ject 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 SANITATION 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;

"(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.

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"(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) 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.

"(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 devices 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) 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.

"(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 Coast 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 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 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 vessels, (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. 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.

"(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 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 mem-

bers 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 of 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.

"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, 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 of sections 301, 302, 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, 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, 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, 306, or 307 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) 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 require-

ments 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 an 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 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 introducing pollutants into

such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced 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.

"(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, 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 thereof, 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.

"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.

"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.

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"(b) The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to this section. 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 jurisdiction 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 appropriate 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, corporation, 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 pollutant' 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, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, 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 amended 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 State, 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 travel-time, 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 person 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 applicable 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 limitaton 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 Administra-

tor 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 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 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.

"STATE AUTHORITY

"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 Numbered 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 on 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, areawide 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 gov-

ernment 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.

"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.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, and to exceed $11,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, and to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

SAVINGS PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party

made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) The Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by, United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs.

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such program;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff of other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITY

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such addi-

tions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall utilize in conducting such investigation and study, the General Accounting Office. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d) (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e) (1) Until July 1, 1975, the Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions

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as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection.

(g) (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority:

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

CARL ALBERT

Speaker of the House of Representatives.

FRANK E. MOSS

acting President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,
October 18 (legislative day, October 17), 1972.

The Senate having proceeded to reconsider the bill (S. 2770) entitled "An Act to amend the Federal Water Pollution Control Act," returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO

Secretary.

By: Darrell St. Claire
Assistant Secretary.

I certify that this Act originated in the Senate.

FRANCIS R. VALEO

Secretary.

By: Darrell St. Claire
Assistant Secretary.

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IN THE HOUSE OF REPRESENTATIVES, U.S.,
October 18, 1972.

The House of Representatives having proceeded to reconsider the bill (S. 2770) entitled "An Act to amend the Federal Water Pollution Control Act," returned by the President of the United States with his objections to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

W. PAT JENNINGS
Clerk.
By: W. Raymond Colley.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-911 accompanying H.R. 11896 (Comm. on Public Works) and No. 92-1465 (Comm. of Conference).
SENATE REPORTS: No. 92-414 (Comm. on Public Works) and No. 92-1236 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 117 (1971): Nov. 2, considered and passed Senate.
Vol. 118 (1972): Mar. 27-29, considered and passed House, amended, in lieu of H.R. 11896.
Oct. 4, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 8, No. 43 (1972): Oct. 17, vetoed; Presidential message.
CONGRESSIONAL RECORD:
Vol. 118 (1972): Oct. 18, Senate and House overrode veto.

1.2p(1) SENATE COMMITTEE ON PUBLIC WORKS
S. REP. No. 92-414, 92d Cong., 1st Sess. (1971)

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1971

OCTOBER 28, 1971.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Public Works, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany S. 2770]

The Committee on Public Works, to which was referred the bill (S. 2770) Federal Water Pollution Control Act Amendments of 1971, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass. An original bill (S. 2770) is reported in lieu of S. 523, S. 1012, S. 1013, S. 1014, S. 1017 and S. 1238 which were considered by the committee.

GENERAL STATEMENT

HISTORY

For more than two decades, Federal legislation in the field of water pollution control has been keyed primarily to an important principle of public policy: The States shall lead the national effort to prevent, control and abate water pollution. As a corollary, the Federal role has been limited to support of, and assistance to, the States.

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The 1948 legislation, for example, assigned powers for enforcement in water pollution control to Governors of the States. The Federal agencies were authorized only to support research in water pollution, projects in new technology, and limited loans to assist the financing of treatment plants.

Given these basic provisions, State and Federal efforts in water pollution control went forward with little legislative change for nearly 10 years. It was a period of transition. To most Americans, the problems of water pollution control appeared to be localized and moderate.

In 1956, the Congress approved the first major legislative changes in the water pollution control program. Federal grants were authorized to assist States in preparing plans for pollution control and to help localities in building treatment plants. The authority for research and technical assistance was increased and broadened. Measures for controlling pollution of interstate waters were tightened.

The 1956 legislation called for increased cooperation between the Federal government and the States to develop a broader national effort against water pollution. The Federal funding authorized, however, fell short of needs. Pressures of population and economic growth upon the natural resources, as evidenced by reports of previously unobserved forms and kinds of water pollution, continued to increase.

In 1965, the Congress approved a second set of major legislative decisions for the water pollution control program. For the purpose of this report, perhaps the most important among these decisions were the assignment of a new responsibility to the States, the continued use of a 1948 enforcement procedure, and the establishment of a new agency to administer the Federal portion of the program.

Each State was required by the 1965 Act to develop standards for water quality within its boundaries. These standards were to be applied to all interstate navigable waters flowing through the State; intrastate waters were not included. The State standards were to be submitted to the new Federal agency by July 1, 1967, for approval.

The 1948 enforcement procedure provided for conferences and negotiations between dischargers of pollutants and officials of the governments involved. The procedure also permitted judicial review of the abatement conference recommendations. Further, a court could order abatement only after a finding that compliance with the order was feasible.

The new agency established to administer the Federal portion of the program was originally known as the Federal Water Pollution Control Administration and was located in the Department of Health, Education, and Welfare. During the past five years, its authority has been transferred twice to other officials in the Executive branch: In May, 1966, to the Secretary of the Interior, and in December, 1970, to the Administrator of the Environmental Protection Agency.

The Congress moved again in 1966 to broaden and intensify the Federal support of State efforts in water pollution control. A five-year authorization totaling $3.4 billion for grants to assist the construction of waste treatment plants was provided. The authorization scheduled $150 million for fiscal year 1967 and increased steeply during the 5 years to $1.25 billion for fiscal year 1971.

Last year, the Congress confronted several specific problems in water pollution control. The 1970 amendments added to the basic law

new sections on liability for cleaning up of oil discharges, discharge of hazardous substances, discharge of sewage from vessels, demonstration projects for cleaning up pollution in the Great Lakes, acid mine drainage, regulation of Federal activities affecting water quality, and manpower training for water pollution control.

1970 Hearings

During April, May, and June of 1970, the Subcommittee on Air and Water Pollution devoted 14 days of public hearings to 18 Senate bills concerning water pollution abatement and control. Among the bills were four introduced for the Administration to amend the law concerning construction grants, standard setting, and enforcement. (The Committee is separately reporting the fourth Administration bill, establishing an Environmental Financing Authority.) The Subcommittee's extremely busy schedule with the Clean Air Act of 1970 and the Resource Recovery Act of 1970 did not permit it to develop a water pollution control bill for action by the Committee on Public Works.

The 1970 water pollution hearings and the Committee's work with the Clean Air and Resource Recovery Acts contributed greatly, however, to the Committee's approach to the pending legislation in this first session of the 92nd Congress. As the Committee observed in its summary of 1969 and 1970 legislative activities:

> The Committee's experience with the early legislation, and the experience of other branches of government, suggested the need for environmental planning on a broader scale. During the 91st Congress, the Committee continued to press for control of existing sources of pollution, and it began to work toward an environmental policy in which the rights to, and responsibility for, use of the air, water, and land resources would be more precisely defined.
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> The Committee's goal is a policy for adequate management of all forms of environmental pollution and for effective protection of the environment. A policy for air pollution only, a policy for water pollution only, a policy for solid waste disposal only, will not suffice. A broad policy and a coordinated effort are imperative.

In particular, the Committee became increasingly concerned during 1970 with the effects of pollution upon public health. In its report on the Clean Air Amendments of 1970, the Committee said in part:

> The legislation reported by the Committee is the result of deep concern for protection of the health of the American people. Air pollution is not only an aesthetic nuisance. The Committee's concern with direct adverse effects upon public health has increased since the publication of air quality documents for five major pollutants (oxides of sulfur, particulates, carbon monoxide, hydrocarbons, and oxidants). These documents indicate that the air pollution problem is more severe, more pervasive, and growing at a more rapid rate than was generally believed.
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> [p. 3]

The final sentence of the quotation could be applied with equal accuracy to the information developed by the 1971 hearings on the pending water pollution control legislation.

1971 Hearings

The oversight portion of the 1971 hearings was conducted by the Subcommittee on Air and Water Pollution on February 4, 8, and 9. Among the witnesses were the Administrator of the Environmental Protection Agency and members of his staff; the Mayors of Detroit, Michigan, and Atlanta, Georgia, and representatives of the National League of Cities and United States Conference of Mayors.

The Subcommittee's Washington hearings on 15 Senate bills were held March 15–19 and March 22–24. Among these bills were four introduced for the Administration which were similar to those considered during the 1970 water pollution control hearings.

In addition, the Subcommittee held field hearings March 26 at Rehoboth Beach, Delaware, on the problems of ocean dumping; April 2 at Kansas City, Missouri, on the problems associated with agricultural runoff; and April 5 at New Orleans, Louisiana, on the problems associated with petrochemical wastes and deep well disposal of such wastes.

Further, the Subcommittee's Panel on Science and Technology held hearings May 13 and 14 on the technology of waste water treatment and related issues.

Adequacy of Standards

The setting of water quality standards for interstate navigable waters, as indicated above, is the keystone of the present program for control of water pollution. The standards are intended to function in two ways:

1. As a measure of performance, the standards are expected to establish the maximum level of pollution allowable in interstate waters.

2. The standards also are intended to provide an avenue of legal action against polluters. If the wastes discharged by polluters reduce water quality below the standards, actions may be begun against the polluters.

The task of setting water quality standards, assigned to the States by the 1965 legislation, is lagging. More than 4 years after the deadline for submission of standards, only a little more than half of the States have fully approved standards. Of the 54 jurisdictions covered by the water pollution control program—the figure includes the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands—only 27 have fully approved standards. However, on their own motion, 44 States have also adopted intrastate water quality standards, in most cases quite similar to their standards for interstate waters.

The States have first responsibility for enforcement of their standards. When approved by the Environmental Protection Agency, however, the standards for interstate navigable waters become Federal-State standards.

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A critical delay of enforcement for interstate water quality results from the water quality standards structure just described. The EPA Administrator may begin action to abate pollution only when:

1. Water quality of interstate waters is reduced below the established standards;
2. Pollution originating in one State is endangering the health or welfare of persons in another State downstream; or
3. The Governor of the State in which the pollution is originating consents to the proposed action.

Adequacy of Enforcement

The continued use of the 1948 abatement procedure also contributes to delay. The record shows an almost total lack of enforcement. Under this procedure, only one case has reached the courts in more than two decades.

In that case, involving a Midwestern city, more than four years elapsed between initial conference and consent decree. The city later constructed a sewage treatment plant. Within 2 years, the plant was treating only half of the city's sewage. Five million tons of raw sewage were being dumped into the river each day.

Continued use of the 1948 abatement procedure, and the almost total lack of enforcement, encourage governing bodies and officials to search for other, more direct avenues of action against water polluters and water pollution.

One such approach which has been focused on is the use of section 13 of the 1899 Refuse Act, which declares a prohibition over the discharge of any matter into the navigable waters.

While the permit program created in late 1970 under the Refuse Act by the Administrator seeks to establish this direct approach, it is weak in two important respects: It is being applied only to industrial polluters, and authority is divided between two Federal agencies.

Experience with the permit system during the past 10 months suggests that the machinery used to date may be as cumbersome as the 1948 abatement procedure. Estimates of the number of permit applications to be received run as high as 300,000; estimates of the time required to process the applications run as long as four years.

Adequacy of Funding

The lack of adequate funding of grants to assist States and localities in constructing sewage treatment plants is causing critical problems.

Of the $3.4 billion authorized for this purpose by the 1966 legislation, only $2.2 billion was appropriated. The backlog of projects eligible for Federal payments has reached a total of nearly $2 billion.

As more States and localities move to take part in the construction program, the need for increased Federal spending is rising rapidly.

Five years ago, the Committee estimated that more than $20 billion worth of sewage treatment plants would have to be built before 1972 in order to serve the population expected in 1980.

Estimates received by the Commission from the National League of Cities—United States Conference of Mayors during its hearings last

year place the total national need for the next five years at more than $30 billion. The figure covers only needs already identified by local officials.

In addition to these demands for increased Federal funding, there is another problem connected with the construction grant program. A 1969 report of the General Accounting Office raises a critical question concerning the use of Federal funds.

Based on a study of eight States, the GAO report discloses that more than $80 million of $1 billion in Federal grants awarded to those States through 1968 was used to help build about 400 municipal treatment plants. The report states, however, that the plants were designed to treat primarily the wastes of industries located within or near the municipal boundaries.

As the size of the Federal grant program and the costs of construction increase, this kind of indirect payment to industrial users of joint treatment plants also will increase.

Adequacy of Information

The Federal water pollution control program suffers from a lack of information concerning dischargers, amounts and kinds of pollution, abatement measures taken, and compliance.

The present water pollution control law allows the EPA Administrator, after an enforcement conference, to require the filing of reports by polluting industries and municipalities. The reports are to include data on discharges and actions taken to abate pollution. However, two provisions of law prevent the Administrator from obtaining adequate information. Polluters are allowed to omit from their reports any information they believe to involve trade secrets or secret processes. And the Administrator has no legal right of entry so that he may check the polluters' operations.

The situation is not so damaging as it might be, since many State programs give their officials the right to enter and inspect plants for compliance with State discharge permits.

The 1969 report of the General Accounting Office, referred to earlier, suggests how much vital information is not available to Federal enforcement officials. The GAO investigated files of State permits on 80 industrial plants discharging wastes into a 170-mile reach of the Mississippi River. The files included information on the amount of wastes being discharged by only 52 of the 80 plants.

It should be noted that one of the most important aspects of the Administration's 1899 Refuse Act permit program has been the accumulation for the first time of detailed information on the character of industrial pollution discharges.

Adequacy of Research

The Federal water pollution control program also suffers from a lack of adequate research and demonstration beyond the traditional methods used in municipal treatment plants.

In primary treatment of sewage, between 30 to 50 percent of organic pollution is removed. With secondary treatment, between 50 and 90 percent is removed.

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Neither of the traditional methods, then, can be completely satisfactory, and both have significant disadvantages. Primary and secondary treatment, for example, requires large capital expenditures and the use of extensive land areas.

The sludge remaining from secondary treatment can create special problems. Some localities burn sludge, thus contributing to air pollution. Other localities use sludge for landfill. Still others dump sludge into the oceans where it is hazardous to sea life.

The reliance of the Federal program upon primary and secondary treatment continues, although the program's efforts in research and demonstration is now more than 10 years old. The annual budget for research by the water quality office of the Environmental Protection Agency amounts to less than $50 million.

Committee Findings

From its two-year study of the Federal water pollution control program, the Committee concludes that the national effort to abate and control water pollution has been inadequate in every vital aspect:

—Many of the Nation's navigable waters are severely polluted, and major waterways near the industrial and urban areas are unfit for most purposes;

—Rivers are the primary sources of pollution of coastal waters and the oceans, and many lakes and confined waterways are aging rapidly under the impact of increased pollution;

—Rivers, lakes, and streams are being used to dispose of man's wastes rather than to support man's life and health; and

—The use of any river, lake, stream or ocean as a waste treatment system is unacceptable.

The Committee believes the restoration of the natural chemical, physical, and biological integrity of the Nation's waters is essential. To achieve this objective, the Committee recommends that the following be adopted as national policy:

—The discharge of pollutants into the navigable waters be eliminated by 1985;

—An interim goal of water quality be achieved by 1981 to provide for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water;

—The discharge of toxic pollutants in toxic amounts be prohibited;

—Federal grant assistance be provided to any community which constructs a waste treatment facility which is consistent with the program set forth by the Congress;

—Regional waste management treatment programs be developed and implemented to assure adequate control of all sources of pollution in each State; and

—A major research and demonstration effort be initiated to find the technological methods necessary to eliminate waste discharges.

The Legislation

The legislation recommended by the Committee proposes a major change in the enforcement mechanism of the Federal water pollution control program from water quality standards to effluent limits.

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Under the 1965 Act, water quality standards were to be set as the control mechanism. States were to decide the uses of water to be protected, the kinds and amounts of pollutants to be permitted, the degree of pollution abatement to be required, the time to be allowed a polluter for abatement.

The water quality standards program is limited in its success. After five years, many States do not have approved standards. Officials are still working to establish relationships between pollutants and water uses. Time schedules for abatement are slipping away because of failure to enforce, lack of effluent controls, and disputes over Federal-State standards.

The Committee adopted this substantial change because of the great difficulty associated with establishing reliable and enforceable precise effluent limitations on the basis of a given stream quality. Water quality standards, in addition to their deficiencies in relying on the assimilative capacity of receiving waters, often cannot be translated into effluent limitations—defendable in court tests, because of the imprecision of models for water quality and the effects of effluents in most waters.

Under this Act the basis of pollution prevention and elimination will be the application of effluent limitations. Water quality will be a measure of program effectiveness and performance, not a means of elimination and enforcement.

The Committee recommends the change to effluent limits as the best available mechanism to control water pollution. With effluent limits, the Administrator can require the best control technology; he need not search for a precise link between pollution and water quality.

It is the Committee's intent to restore the balance of Federal-State effort in the program as contemplated by the 1965 and 1966 Acts. The Committee is particularly concerned that there should be a balanced effort in the discharge permit system initiated under section 13 of the 1899 Refuse Act.

The permit system establishes a direct link between the Federal government and each industrial source of discharge into the navigable waters. This permit system is independent of the Federal-State program set up by the 1965 Act which contributes to uncertainty among all concerned.

The permit system, as restated by this legislation, prohibits the discharge of pollutants into the navigable waters.

The legislation will restore Federal-State balance to the permit system. Talents and capacities of those States whose own programs are superior are to be called upon to administer the permit system within their boundaries. The Administrator is to suspend his activity, insofar as the permit system is concerned, in these States.

In order to carry out the objective of this legislation, a two-phase program for applying effluent limits is created; the first based on best practicable technology, the second based on best available technology.

In Phase I, to be implemented by 1976, all industrial pollution sources must apply the best practicable technology. Communities will be required to have secondary treatment construction programs by June 30, 1974.

In Phase II, to be implemented by 1981, communities and industries will be required to apply, where the goal of no-discharge cannot be attained, the best available technology.

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Until State programs are approved, the Administrator of the Environmental Protection Agency is authorized to regulate discharges of pollutants through the use of an expanded permit program. He also may ban the discharge of any toxic pollutant.

Progress toward the national goal is to be assisted through the following steps:

The legal base for use of Federal permits to regulate the discharge of pollutants is reinforced and improved.

The scope of the 1899 Refuse Act is broadened; the administrative capability is strengthened.

Where the Administrator can identify a direct link between a discharge source and water quality, the Administrator is authorized to tighten controls on the polluter.

Wherever attainable, an interim goal of water quality is to be achieved by 1981 providing for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water.

To assist States and localities, the bill proposes a 4-year program of Federal grants for construction of sewage treatment plants. The Federal matching funds total $14 billion through fiscal year 1975.

The minimum Federal grant is set at 60 percent of project cost. If a State contributes as much as 10 percent of project cost, the Federal grant is increased by a matching 10 percent. A locality's share thus becomes 20 percent of project cost.

The bill requires grantees to use the best practicable methods for waste treatment. After fiscal year 1974, all grantees must evaluate available methods for recycling and reclaiming wastes, including the use of confined and contained disposal of pollutants.

The bill requires Governors and local officials, in cooperation with the Administrator, to develop plans for areawide waste treatment management in areas with critical water pollution control problems. The plans are to be completed by July 1, 1974.

In addition to municipal and industrial wastes, the areawide plans are to include procedures to control agricultural runoff, surface and underground mine runoff, construction runoff, and disposal of pollutants on land or in excavations.

The bill also provides reimbursement for sewage treatment plants built without Federal assistance during earlier stages of the Federal program. Plants begun between fiscal year 1956 and fiscal year 1966 are eligible for grants equal to 30 percent of project cost. Plants begun after June 30, 1966 are eligible for grants equal to 50 percent of project cost. A total of $2.4 billion is authorized for this purpose.

A discretionary fund of $200 million is set aside for the Administrator's use where costs of regional sewage treatment plans may exceed State and local entitlement to the Federal grants. The fund is intended to assist such projects as the District of Columbia's Blue Plains plant, a major polluter of the Potomac River.

Grantees must adopt a system of user chargers to assure that each class of users will help to pay the costs of operation and maintenance, including replacement, of sewage treatment plants financed with Federal grants.

In this context, each industrial user of such facilities must agree by contract to pay back the portion of Federal share of construction

cost allocable to the industrial user's wastes. These payments are to be received by the Administrator and deposited in the Federal Treasury.

The bill makes unlawful the dumping or disposal of any radiological, chemical or biological warfare agent, or high-level radioactive waste into the navigable waters.

Discharges into the territorial seas or discharges from ocean outfalls are subject to the regulations applicable to discharges into the domestic, navigable waters.

For new, point sources of discharge, the bill requires the Administrator to set uniform standards of performance. These standards must reflect the maximum reduction of pollutants possible through use of the best available control technology. Twenty-eight types of industry listed by the bill are to be covered by the performance standards. Each State may develop and submit to the Administrator a procedure for enforcing the performance standards for new, point sources located within the State.

The bill also requires the Administrator to conduct research into better methods of controlling pollutants from non-point sources such as agricultural runoff. A total of $10 million is set aside for the agricultural research.

Further, each State is required to adopt methods for control of pollution in fresh water lakes within the State. Restoration of water quality in these lakes is to be assisted by Federal funds.

The task of enforcing provisions of the bill is assigned to the Administrator. He is authorized to enforce permit violations immediately, or if a State fails to act within 30 days after receipt of a notice of violation, the Administrator may issue an order to comply or go to court against the violator.

Civil and criminal penalties are provided. A second conviction shall be punished by a fine of not more than $50,000 per day of violation, two years in prison, or both.

Under the bill, citizens themselves may go to United States District Courts against those who violate effluent standards or compliance orders. Citizens may also go to court against the Administrator for failure to carry out non-discretionary duties under the law.

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DISCUSSION OF INTENT

TITLE I—RESEARCH AND RELATED PROGRAMS

SECTION 101—DECLARATION OF POLICY

This section establishes a policy that the discharge of pollutants should be eliminated by 1985, that the natural chemical, physical, and biological integrity of the Nation's waters be restored, and that an interim goal of a water quality allowing fish propagation and suitable for swimming should be reached by 1981. The States are declared to have the primary responsibility and right to implement such a goal.

The policy declaration of the Federal Water Pollution Act has been revised substantially in order to represent the departure in Federal water pollution control policy from a water quality standards control mechanism to a discharge control mechanism.

The objective of the Act is to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters. The policy is set forth that, consistent with the provisions of the Act, the discharge of pollutants into the navigable waters be eliminated by 1985.

This policy, supplemented by other provisions of the Act relative to the control of toxic pollutants, construction of waste treatment facilities, research and demonstration, and regional waste treatment management, provides an overall identification of program goals and methods of program implementation.

It is important to recognize that the interim goal of water quality—to be achieved by 1981, and providing for the protection and propagation of fish, shellfish and wildlife and also providing for recreation in and on the water—continues the essence of the water quality standards program. The interim goal also recognizes (as set forth in Section 302) the difficulty of establishing effluent limitations which precisely relate to the maintenance or achievement of a specific water quality criteria.

The Committee recognizes the difficulty of implementing a no-discharge policy. The development of the midcourse correction information, required by Section 305, should provide the Congress and the public with the definitive data needed to evaluate fully the implications of a no-discharge policy. That information will assist the Nation in any decision on the proper enforcement mechanism to be established to support the goal, if appropriate, or a decision to refine the date for the attainment of the goal with greater precision, if required, or the extent of the exceptions to that goal, if any, or whether the costs associated with reaching this ultimate standard, in some instances, may far outweigh the benefits derived. In the interim, the goal set forth in Section 101 should provide the Administrator and the States with

the direction and the mandate to direct research efforts toward developing the technology to apply a no-discharge standard. Without a clearly set goal of natural water quality achieved through application of a no-discharge policy, it is not likely that resources will be applied to develop the means necessary to achieve an environmentally and ecologically sound water quality goal.

A high degree of informed public participation in the control process is essential to the accomplishment of the objectives we seek—a restored and protected natural environment.

Section 101(d) is included because the Committee recognizes that the manner in which these measures are implemented will depend, to a great extent, upon the pressures and persistence which an interested public can exert upon the governmental process.

The Environmental Protection Agency and the State should actively seek, encourage and assist the involvement and participation of the public in the process of setting water quality requirements and in their subsequent implementation and enforcement.

Information and education programs should be devised which will acquaint the public with the complexity of the water quality control process and provide them with the technical information. To accomplish this, the Environmental Protection Agency should look to the utilization and support of such devices as community workshops and other assistance activities which were developed and utilized so effectively in the implementation of the Clean Air Act.

Section 102—Comprehensive Programs for Water Pollution Control

The Administrator retains authority to develop programs for eliminating water pollution as he shall determine the need and value of any water quality storage that may be incorporated in any reservoir project. Fifty percent matching grants for river-basin planning are combined.

Section 102 of the bill parallels Section 3 of existing law. Subsection (b) is modified to make it clear that regulation of streamflow, while a legitimate project purpose, cannot substitute for adequate waste treatment or other methods of eliminating waste at the source. Under the amended language, the Administrator is given the responsibility for determining when low flow augmentation is an appropriate technique for supplementing primary pollution control programs.

Pursuant to section 3(c) of the existing Federal Water Pollution Control Act, the States—or, with the approval of the Governor, subdivisions of States—are eligible for Federal grants to assist the development of comprehensive river basin plans.

The concept of river basin planning is important to the development of programs which will achieve and maintain water quality objectives. Only a limited number of grants have been made under the existing law because of inadequate funding. The need for river basin planning continues and, therefore, the Committee bill continues the authority for river basin planning grants to States and their subdivisions in subsection (c) of section 102. A separate, expanded authorization is provided to carry out the program.

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SECTION 103—INTERSTATE COOPERATION AND UNIFORM LAWS

This section restates section 4 of existing law, with minor conforming language changes.

SECTION 104—RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

The authority of the Administrator in support of research programs to prevent and eliminate water pollution is continued and expanded.

The Administrator is authorized to establish field research laboratories in six sections of the Nation and to study the nature of river systems and sewage in rural areas. Authorization for a one-year study of problems associated with the disposal of waste oils, such as lubricating oils, is included in this section.

New authorizations in this section also provide for research into means to reduce unnecessary water consumption, as well as research, in cooperation with the Secretary of Agriculture, on problems associated with the control of agricultural pollution. Ten million dollars is authorized in fiscal year 1972, and annually thereafter, for this agricultural pollution research.

Another $7,500,000 is authorized in fiscal year 1972 to continue a pilot training program for personnel to operate and maintain treatment works. In fiscal year 1972 $2,500,000 is authorized to continue work on the forecasting of employment needs in water pollution control. In addition to such special authorizations, there is a general authorization for this section of $65,000,000 in fiscal year 1972, $70,000,000 in fiscal year 1973, $75,000,000 in fiscal year 1974, and $80,000,000 in fiscal year 1975.

Section 104 of the bill incorporates many elements of the research authority of existing law and expands and redirects such authority to reflect the policy set forth in section 101 and the requirements which would be established in the operative sections of the Act. In order to restore the natural chemical, physical, and biological integrity of the nation's waters, a great deal more must be learned about the nature and functioning of aquatic ecosystems and the impact of improper land use development.

The burden on the Administrator to develop information to implement Titles III and IV of this Act will require broad and intensive research efforts. The Committee expects the Administrator to carry out research on how water quality is affected by the discharge of pollutants from point sources, the uncontrolled runoff of pollutants from land, from accumulated in-place deposits and from other sources.

The rigid controls on toxic substances to be established under section 307 require analysis of toxic pollutants and their effects on human health.

In addition to the general research authority, section 104 provides specific authority to support training and academic programs.

The Committee believes that the training programs in this section offer many opportunities to increase the efficiency in the operation of existing waste treatment plants. The Committee, however, notes that current Federal programs have concentrated on the training of new

employees to meet the backlog of unfilled jobs in the field. This is important and necessary.

But the Committee also believes that there are many opportunities to improve the operation of existing facilities through occasional training sessions for present employees. Much of this training could be accomplished on-the-job, allowing an instructor to work in the plant with the operator-trainee. The language of Section 104(b)(5) clearly permits such training, and the Committee expects that the Environmental Protection Agency will initiate efforts to assist the States that wish to create and operate effective on-the-job training programs.

One new provision added to this section directs the development of a national water quality monitoring and surveillance system through which to accurately inventory and determine the actual quality status of all water of the Nation. The Committee has been deeply disturbed by the inadequacy of information that exists on the quality of the nation's waters. Proper implementation of this new authority should remedy that deficiency. It will be particularly important in supplying the techniques by which the requirements of section 305 for an accurate assessment of the quality of the Nation's waters as they exist and as they compare to the water quality objectives to be met.

The Committee received disturbing testimony from nongovernment sources concerning the quality of the Environmental Protection Agency's existing water quality monitoring program. The Administrator must give close attention to this program to insure high performance.

In addition to the provisions which direct the Administrator to make full distribution of the information generated from the research under this section to interested parties, the section continues specific research programs on the problems of fresh water lakes, the Great Lakes, water use and waste water generation, estuarine pollution, and sewage from vessels.

Subsection (l) of Section 104 of the bill authorizes a study of methods to deal with the disposal of various types of waste oils. The accumulation of used engine, machine, cooling, and similar oils presents a difficult pollution problem. Evidence presented to the Committee indicates that between one billion and two billion gallons of waste oil are generated yearly in the United States. Some of this oil is presently re-refined into oil for reuse as a lubricant. Some of this waste oil can be used as fuel. But too often, this waste oil is surreptitiously dumped into streams or onto the land, causing considerable pollution.

The American people were greatly concerned at the damage created when a well discharged 60,000 barrels of oil into the ocean off Santa Barbara, California, in early 1969. According to calculations made earlier this year by EPA, that as much used engine, machine, and similar oil is presently dumped into our environment every 36 hours.

Various Federal decisions concerning the labeling of waste oil and tax provisions affecting waste oil appear to have been a significant factor in the decline in recent years in the reuse of this waste oil.

This subsection directs EPA to undertake a full study of the legal and psychological impediments to the utilization of waste oil and to

determine whether the Federal Government can and should develop methods for encouraging its reuse. One possible method would be the purchase, on a preference basis, by the government of products made from waste oil. Another possible field of study could be what regulations, if any, might be imposed on the processors of crude oil to encourage or require the collection of waste oil at the points of sale of new oil.

The Administrator is directed to make its report to the Congress within one year.

In view of the objective of the Act to restore the natural integrity of the nation's waters, the Committee has included a new subsection 104(m) authorizing the designation of River Study Centers, to be regionally located and provided with Federal financial support.

Through interdisciplinary studies, such centers could apply existing and developing knowledge to the problems, often complex and always interrelated, of growth and development within river basins and the impact of that development on the best use of water resources and on the value of water-dependent activities.

Long tradition and practice support the use of rivers for transportation, for water supply, for energy, for recreation and beauty—and, unfortunately, for waste disposal as well. It is now clear, however, that in many cases man's use has brought the natural drainage systems to a point of diminishing value, and often to a critical point neither anticipated nor well-understood.

Man's activities have had, and will continue to have, a profound effect upon our natural drainage systems. But on the whole, we have taken our river systems for granted and have given too little attention to the scope and character of these changes. It is time they were examined with more precision, so they may be taken more fully into account.

This proposal for the establishment of one or more River Study Centers at the suggestion of the University of Louisville, and the Committee believes the establishment of such Centers can make a contribution in the application of knowledge and experience to better planning and practice.

Subsection (o) adds authority for the Administrator to conduct research and investigations on devices and methods which reduce unnecessary water consumption for domestic and other purposes in order to reduce the costs of sewage and waste treatment services. Such research should produce devices and methods which achieve the maximum reduction of unnecessary water for domestic and other purposes.

Water pollution resulting from agricultural production is clearly a growing problem of great magnitude and complexity. Agriculture is now one of the major contributors to the degregation of the quality of our navigable water. The basic problem is one of managing the inputs and outputs of agricultural production to maintain the quality of the water, air, and soil environment while economically producing food and fiber.

Progress has been made in agricultural research but we must go beyond it to meet the present challenge. Until we compile adequate identification, analysis, and evaluation of existing programs and methods; vigorously study alternative production decisions available to

agricultural producers at various steps of the production process; and develop information of about the social, legal, and economic impacts of these methods, we will have little impact on the enormous problem of agricultural water pollution.

Subsection (p) provides that the Administrator shall carry out a comprehensive study and research program to determine new and improved methods of preventing and controlling water pollution from agriculture, including legal, economic, and other implications of the use of such methods.

Subsection (g) authorizes the Administrator to conduct research and make grants for demonstration programs for new and improved methods of preventing, abating, reducing, storing, collecting, treating or otherwise eliminating water 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.

There are large areas of the country in which the population is widely dispersed and separated by topographical barriers. While some of these areas have relatively heavy populations, they are so located that conventional sewage collection and treatment systems are not feasible.

The usual method for collection and disposal of sewage under such circumstances is by the use of septic tanks and drainage fields. There are, however, large areas in which soil conditions preclude the use of septic tanks and drainage fields. These situations provide particular problems in mountainous areas such as the Appalachian Region.

The Committee recommends that specific attention be given to the sewage disposal needs of such areas, and that research and demonstration efforts be initiated which would test the engineering and economic feasibility of alternative methods of meeting this problem. For instance, perhaps collection lines would be used, but the treatment unit could be comprised of a spray irrigation facility on an uninhabited mountainside (including appropriate bacteriological and viral controls) instead of a traditional primary and secondary treatment plant. In addition, attention should be given to the social and institutional practicalities of such alternatives.

In addition, in many rural areas and small towns and villages it is not economically feasible to build conventional sewage treatment systems due to the restricted incomes of persons and families in these areas. Even with substantial increases in the percentage of Federal funding, conventional sewage systems most likely will not be constructed.

According to the Farmers Home Administration, these circumstances pose obstacles to the financing and constructing of new homes in areas of this description, but more importantly, also serve to prevent people already living in areas of this kind from upgrading the quality of their housing.

Section 105—Research and Demonstration Programs

The Administrator of EPA is authorized to conduct in-house demonstration projects or contract for such projects designed to

eliminate pollution reaching the navigable waters through storm water runoff or industrial activity.

EPA is authorized to undertake a model river demonstration project of advanced pollution control and in-stream enhancement techniques. Demonstration projects on control of agricultural pollution are authorized.

Any Federal grant under this section is limited to 75 percent of the cost. In fiscal 1972, $70,000,000 is authorized for this section, with the total increased by $5,000,000 annually each year thereafter through fiscal 1975. At least 10 percent of the sums actually appropriated in any fiscal year must be spent on programs dealing with agriculture.

This section continues and expands the demonstration program authority provided by section 6 of existing law.

Throughout the bill there is great emphasis on control technology, process change, and other alternatives to ultimately eliminate the discharge of pollutants into the Nation's waters. To achieve compliance with such objectives it will be necessary to undertake on an extensive program of demonstration projects in order to rapidly expand technological responses available to meet the national objective. Necessarily such demonstration projects will have to be comprehensive and integrated rather than piecemeal.

Subsection (b) of section 105 authorizes the Environmental Protection Agency to undertake demonstration projects on new or improved methods for the enhancement of water quality.

The Council on Environmental Quality, in its first annual report to the President and the oCngress in 1970, proposed such a model river program. The Council stated:

> The Council recommends that efforts be made to provide a demonstration in one river basin of the most advanced concepts of water quality management. Such a demonstration might use regional treatment facilities; nontreatment alternatives such as in-stream aeration and low flow augmentation; and new financial incentives, such as effluent charges. The proposal would demonstrate the techniques to meet water quality management needs in the future, when the problems from increasing population and industrialization grow even more acute.

While the Committee believes that this approach has great merit and should be initiated in one or more selected river basins or portions of river basins.

While the Committee believes that this approach has great merit and would be useful in the heavily polluted industrial rivers. While the improvement in water quality of such a river is desirable and mandated in Title III of this bill, this demonstration project is directed at a variety of pollution problems.

An appropriate location for such a model river study may be the Brandywine River. The Brandywine, which rises in Pennsylvania and flows into the Christmas River in Delaware, and then into the Delaware River, offers the necessary wide variety of municipal, industrial, and agricultural pollution problems that could be met effectively to demon-

strate new techniques for water quality enhancement. The Administrator to develop a model river program as soon as practicable.

The Committee has included specific authority for the conduct of demonstration projects on agricultural pollution problems. Grants under section 105(d) will be made by the Administrator, in consultation with the Secretary of Agriculture, and the information derived from demonstration projects will be disseminated in cooperation with the Secretary of Agriculture. The Administrator should work closely with the Secretary to the maximum practicable extent to utilize the resources, channels of communication to the agricultural community, and the experience of the Department of Agriculture in carrying out his responsibilities under this section.

It should be noted that the limitation in existing law that no demonstration grant should exceed $1 million has been removed in recognition that many demonstration projects for municipal and industrial pollutant discharge control will require expenditures greatly in excess of that figure.

In addition the authorization is increased to reflect the urgency of the demonstration program, yet held to the lowest levels the Committee feels, can be authorized without jeopardizing the program.

It is essential that the Administrator, in carrying out the functions under section 105 as well as section 104, establish priorities which match the priorities of the objectives of the Act and regulatory program established thereunder. The Committee recognizes that many of the specific programs authorized in sections 104 and 105 may be underfunded or even postponed while the research, development, and demonstration is undertaken to support compliance with rigorous requirements established under this Act.

Section 106—State Programs

Grants to States are authorized in an effort to assist the States in carrying out an effective water pollution control program. Allocation of funds is to be based on population and the extent of water pollution problems.

To qualify for a grant, a State must certify that it shall maintain its water quality program each year at the level of its recurrent expenses during fiscal 1971. If the State reduces its spending, the Administrator shall reduce the EPA grant proportionately.

Beginning in fiscal 1973, a State, in order to qualify for a program grant, must begin to develop Section 209 plans, indicate that it has begun work on its section 305 study, and impose monitoring requirements on point source owners. This section authorizes $30,000,000 each for fiscal 1972 and for fiscal 1973, with $35,000,000 authorized for fiscal 1974 and $40,000,000 for fiscal 1975.

Section 106 provides for Federal financial support for State and interstate programs of water pollution control.

The State and interstate programs would continue to include the elements previously supported under the prior Section 7 of the Federal Water Pollution Control Act, and would embrace new elements necessary to implement requirements under the 1971 amendments, including: development of regional waste treatment management

plans, advanced monitoring systems, controls for locating new discharge sources, intergovernmental cooperation, data collection, analysis and reporting.

The objective of this Act will be met only if the States have vigorous and adequate pollution control programs. In fact, in those States where such programs have already been established the quality of the control program is high. However, there are many States with serious deficiencies in the quality of their program, often caused by a serious inadequacy in the level of funding and manpower. It is the purpose of Section 106 of the Committee bill to increase the level of Federal financial assistance to the States so that they are capable of fully implementing the 1971 amendments.

A new mechanism for funding State and interstate programs is provided whereby State matching requirements increase from year to year, calculated on a base year of fiscal year 1971. This is intended to encourage the necessary expansion of such programs and of State financial participation in such programs. This sharing of increased State financial participation.

Authorizations for appropriations of Federal grants will increase from $30 million for fiscal year 1972 (as compared with $10 million under present authorization) to $35 million for fiscal year 1974, and $40 million for fiscal year 1975.

Flexibility is provided the Administrator to determine the adequacy of State programs in the light of changing regulatory requirements, new technology and other circumstances and to adjust State and interstate support accordingly.

A regulatory program premised on a Federal-State relationship is necessarily dependent upon the quality of the respective administrative programs. At the Federal level there has been underfunding and understaffing. The increased authorization of appropriations under section 516, is, in part, aimed at remedying this deficiency.

The Committee was disturbed by the reports from many States about the paperwork and the associated administrative burden in preparing an application for a Federal program assistance grant. Any time procedural aspects begin to erode and interfere with the substance of a program the law is not being properly implemented. The Committee, therefore, expects the Administrator to review the application procedures so they may be expedited.

Formal review and analysis of the quality of State programs for the purpose of reviewing applications for program grants should be held to the minimum necessary to assure compliance with the requirements of the bill.

The Committee, through its hearings and staff investigations, noted substantial hostility in many States toward the Federal program. An attitude of competition rather than cooperation seemed to prevail. The Committee expects the Administrator as a first priority to take steps to provide the leadership to create a meaningful working relationship with the States.

In addition to fiscal and other basic program requirements, the bill requires as a condition to Federal assistance compliance with elements essential to a high level of performance in State water pollution control programs. These elements include monitoring water qual-

ity,reviewing and regulating the location of new sources of discharge, setting priorities for waste treatment works construction, and procedures to assure non-degradation of water quality and, to assure no alteration of the quality of any waters which meet the objectives of this Act.

SEC. 107—MINE WATER POLLUTION CONTROL DEMONSTRATIONS

In cooperation with the Appalachian Regional Commission, EPA is authorized to conduct demonstration projects for control of mine water runoff and related water pollution problems, including a study on the feasibility of using sewage sludge to prevent mine water pollution and to restore mined areas.

Section 107 of this bill contains revisions of the mining area pollution control demonstration program to permit its more effective implementation.

In developing amendments to the Federal Water Pollution Control Act in 1969 and 1970 the Committee gave major attention to the problems caused by acid discharges into watercourses as the result of mining activities.

In areas of the country where mining is a major activity, streams have been seriously affected by acid drainage from active and inoperative or abandoned mines. Such drainage impairs water quality in these areas and makes affected streams unable to support fish or animal life and unsuitable for industrial, recreational and public water supply uses.

Acid mine drainage is a particularly severe problem in States of the Appalachian region where much of the Nation's coal mining is concentrated, forming a major portion of the economic base. In these areas acid drainage and other mine-related pollution are a serious deterrent to the improvement of the quality of life and to economic expansion and diversification.

In Appalachia alone there are more than 5,700 miles of streams polluted by acid mine drainage with the heaviest concentrations in Pennsylvania, West Virginia, Ohio and Maryland.

In the Water Quality Improvement Act of 1970 (PL 91–224) grants were authorized to support projects demonstrating on an area-wide basis technological and economic feasibility of methods for controlling acid pollution caused by mining. Subsequent evaluation of this program by the Committee has shown the need for changes in the law.

Studies by the Appalachian Regional Commission and other agencies have shown the Monongahela River Basin in West Virginia and Pennsylvania may be suited for a large-scale demonstration program in the control of mine-related pollution.

These amednments increase authorizations for the demonstration program from $15 million to $30 million. Should the Administrator and the Commission find that a large scale demonstration project within the Monongahela River Basin would be useful, the additional authority available may be used to fund such a project.

The serious problems caused by siltation resulting from surface mining are recognized and demonstration programs to alleviate this situation are essential. The additional funding will permit greater activity in this field.

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Advanced waste treatment techniques produce large amounts of sludges and other solid materials that pose difficult disposal problems. There is some evidence that sludges, alone or in conjunction with other municipal wastes, can be used in a positive way to reduce water pollution from abandoned, mined-out areas and make them suitable for beneficial uses. Section 107 explicitly calls for demonstration projects using sewage sludge materials and other municipal wastes for mine-water pollution control and restoration of the lands for beneficial uses.

The Committee believes that programs to clean up acid mine drainage should be coordinated in a comprehensive attack on all pollutants affecting water quality and water use in the Basin. The correction of the single problem of mine drainage will not result in the increased water and resource use expected if other significant pollutants affecting water quality and water use continue to exist. Degradation of the land from past mining, the casual dumping of solid wastes, and other activities also impair the area's ability to increase the use of its resources and to grow.

Section 107 also requires the active involvement of the Appalachian Regional Commission in the identification and planning of projects within its area of jurisdiction and the timing and phasing of these activities. This is needed to insure consistency of these projects with the overall aims and objectives of the total Appalachian development program, and with the Commission's own mandate to work for the resolution of mine-related pollution problems.

The Committee found that certain restrictive requirements in administrative interpretation and regulations under existing law have hampered full implementation of this program. Section 107 eliminates the requirement that states pay 25 percent of project costs (although retaining the requirement that states acquire lands utilized in projects), and makes other changes to expedite the implementation of this program. But the full benefits of this program can be realized only if the Environmental Protection Administration and the Appalachian Regional Commission cooperate in seeking the early commitment of these funds.

Section 108—Pollution Control in Great Lakes

This section of the bill restates section 15 of existing law, with minor conforming language changes.

Section 109—Training Grants and Contracts

The Committee has made only one change in existing law providing for training grants. The change would enable the Administrator to utilize his authority to make grants for construction of waste treatment works under Title II to provide for the construction of necessary education and training facilities for treatment work operation and maintenance personnel. Such facilities would be additions to treatment works.

As was pointed out in the GAO Study on the operation and maintenance of waste treatment works, one of the most disappointing aspects of the overall water pollution control program, and specifically of waste treatment management, has been the poor performance of treat-

ment works attributable to inadequately trained operation and maintenance personnel. Because of such inadequate performance, treatment works operation is often so poor their value is effectively negated at times and waste is discharged which is inadequately treated or not treated at all.

SECTION 110—TRAINING PROGRAM ALLOCATIONS

This section of the bill restates section 17 of existing law, with conforming language changes.

SECTION 111—SCHOLARSHIPS

This section of the bill restates section 18 of existing law, with conforming language changes.

SECTION 112—TRAINING PROGRAM AUTHORIZATION

$25,000,000 is authorized in fiscal 1972 to carry out the provisions of Sections 109, 110, 111, and 112.

This is section 19 of existing law, eliminating the authorizations for past fiscal years.

SECTION 113—ALASKA VILLAGE DEMONSTRATION PROJECTS

This section of the bill restates section 20 of existing law, with conforming language changes.

SECTION 114—POLLUTION CONTROL IN LAKE TAHOE

A demonstration project is authorized for control of non-point sources of pollution in the Lake Tahoe Basin. No Federal project that may result in a discharge into Lake Tahoe may go forward until after the Administrator has had the opportunity to bring his views on the project to public attention. $6,000,000 is authorized for this Section.

The Lake Tahoe Basin is a unique National resource urgently requiring effective Federal action to preserve its environmental quality.

Section 114 authorizes the Administrator, in consultation with the Tahoe Regional Planning Agency and other interested Federal and State agencies, to design and carry out projects to develop and demonstrate comprehensive water pollution control programs in areas subject to the jurisdiction of the Tahoe Regional Planning Agency.

Nonpoint sources of pollution are a major continuing threat to the Lake Tahoe Basin. Controls over such sources are required to maintain and enhance the quality of water in the Tahoe Basin and should provide data and solutions for water pollution control problems experienced elsewhere in the Nation. Section 114 makes funds available for planning and other described activities, subject to the requirements set forth in Subsection (a).

Section 114(b) authorizes the Administrator to review, in consultation with the Tahoe Regional Planning Agency, any Federal or Federally assisted public works project, any expenditures of Federal funds, any Federal licenses or permits, any Federal insurance and any Fed-

eral guarantees of loans in all cases where, in the judgment of the Administrator, such Federal activities may result directly or indirectly in discharges into the navigable waters of the Basin.

Before the Federal actions described in Section 114(b) may be taken, the Administrator must complete his review and comply with the requirements of Section 309 of the Clean Air Act. No permits pursuant to Section 402 shall be granted which are not consistent with any determination made under Section 114 and Section 309 of the Clean Air Act.

Under Section 114(c), the Administrator shall report to the Congress, within 180 days of the enactment of the Federal Water Pollution Control Act Amendments of 1971 and annually thereafter, on (1) the environmental impact of all development in the Tahoe Basin area; (2) the adequacy of plans developed by the Tahoe Regional Planning Agency to maintain and enhance environmental quality within the Basin; and (3) demonstration projects authorized by this Section, including an analysis of results. It is intended that this process shall authorize and direct a continuing Federal review by the Environmental Protection Agency of development activities, environmental quality and regional planning in the Tahoe Basin area.

Section 114(d) provides an authorization of $6,000,000 which shall be available until expended. It is intended that such funds supplement, not supplant, any funds available under other provisions of the Federal Water Pollution Control Act Amendments of 1971.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

SECTION 201—PURPOSE

This title has the objective of assisting in the development of waste treatment management plans and practices to eliminate the discharge of pollutants. Toward that goal, the best practicable technology is to be used, which shall include recycling of water, where practical. Waste management is to be developed on a regional basis.

Beginning in fiscal 1975, the Administrator shall reject any Section 207 construction grant application which would result in any discharge of pollutants, unless the applicant demonstrates to the Administrator that alternative waste treatment techniques have been considered, and that the proposal will result in the best practicable treatment.

Section 8 of the existing Federal Water Pollution Control Act provides very little guidance as to the purposes of the waste treatment facility construction grant assistance program. The tremendously increased level of funding for construction proposed by the 1971 amendments requires that Congress give some policy direction to the Administrator in carrying out this program and to maximize the return on the public tax dollar. The Committee has, therefore, included a requirement that Federal assistance for the construction of waste treatment facilities must require, where appropriate, practices which will recycle and reclaim water and provide for the contained or confined

disposal of pollutants. This bill would establish a policy in concert with the fundamental ecological principle that, to the extent possible, all materials should be returned to the cycles from which they were generated. Properly managed, this means pollutants do not escape or migrate to cause degradation of the water, air or land environment.

The Committee has undertaken to establish a procedure which requires that each applicant make an analysis of alterantive waste treatment management schemes, with the burden upon the applicant to examine all available alternative waste management techniques, and, if a method is recommended which will not comply with the statement of policy, to show why. The statement of purpose, coupled with the burden of proof should, in the context of vigorous public participation and expanded research and development programs cause a re-orientation of waste treatment technology toward more sustained and productive results.

Conventional treatment methods currently being funded under section 8 of existing law, for many reasons, are not adequate.

First, the nutrient content of effluent after secondary treatment may be so great that stimulation of rapid eutrophication continues.

Second, in many areas where major problems exist because of storm water runoff, no amount of additional secondary treatment will avoid the fact that for a significant percentage of each year, such systems are rendered totally ineffective unless storm waters can be retained for subsequent treatment. No amount of advanced treatment, without storage of the storm water runoff will achieve water quality objectives.

Third, conventional treatment is at best an interim solution; such facilities are easily over-taxed, their life expectancy is relatively short, and by themselves do not solve the problem of residual waste; i.e., sludge and other pollutants removed from the effluent.

Alternative waste treatment methods, which requires the return of pollutants to natural cycles, are only new in the sense that they have re-emerged for application. This method is most commonly associated with the Muskegon project although other recent examples include work at Penn State University and Michigan State University and elsewhere.

The Environmental Protection Agency, in Volume II of the 1971 report on "The Cost of Clean Water", states:

> They (ground disposal procedures) have the great virtue of recycling the materials so disposed, both by replenishing water tables and by converting and utilizing organic and inorganic waste matter in natural life processes of decay and growth. Their secondary merit is more germane to this discussion. Water reaching watercourses after passage through the filtering and decomposition processes afforded by soil is far purer—provided that soil loading rates are not exceeded—than any waste treatment process short of distillation could make them.

The Committee emphasizes that the policy in Section 201, read with the policy stated in Section 101, requires the Administrator to direct his research and development authority under sections 104 and 105 to carry out those policies. This statement of policy, coupled with a requirement to consider alternatives as a condition to Federal assist-

ance is intended to overcome the resistance and lethargy present in many planners in the Federal agency, State agencies and in private consulting firms. Planning must move beyond its present orientation to truly integrated and ecologically sound systems. It is expected that the Administrator will give close supervision to this effort in order to develop integrated and comprehensive waste management systems and technology. The Administrator must press the development of technology, and do it within the framework of ecological principles so that sound systems are developed.

Land disposal systems to be effective must be designed and managed so that sewage is applied to the land at control rates, concentrations and proportions of pollutants, so that the character of the land and the plant life are not overtaxed or otherwise degraded. Properly designed land disposal of pollutants must include pretreatment to remove industrial and tox materials.

The Committee notes that the Secretary of the Army, pursuant to a Resolution of the Committee, has been studying the application of alternative waste treatment mechanisms for five major regions throughout the United States. These include the Merrimac River Basin, the Cleveland-Akron Metropolitan area and the San Francisco Metropolitan Region. Preliminary reports of these studies analyze treatment alternatives from complete land disposal methods, to combinations of land treatment and conventional technology, to conventional technology.

The preliminary reports suggest the possibility of applying land treatment in many areas of the country. The Committee expects the type of planning represented in these preliminary reports will be integrated into the planning activities required under Section 209.

As stated in the recent report of the Institute of Ecology: "The cure for this eutrophication is to recycle the organic matter and nutrients within the ecological system: man must find economic ways of returning sewage to the land or of using it productively in aquatic systems."

Section 202—Federal Share

The basic Federal share for the construction of sewage treatment facilities increasedto 60 percent. A 10 percent Federal bonus is provided when the State agrees to contribute 10 percent toward the cost of each such facility.

The bill would increase the Federal share of waste treatment projects from a maximum of 55 percent to a maximum of 70 percent. This decision was reached after a careful review of the overall costs of community waste treatment, the need to stimulate an accelerated investment in waste treatment works, and the recognition that the Nation's communities cannot generate the funds required under this Act within the period of time set forth without an additional stimulus from the Federal Government.

The Committee believes that the State grant participation in the water pollution control program is essential and should be encouraged. If a State agrees to provide an additional 10 percent grant for each project assisted in that State during the applicable fiscal year, the Federal share for that State increases to 70 percent.

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This legislation will terminate the policy of increased Federal grant assistance to projects in those States which participate by making loans to communities. Only a nonrepayable grant will be an acceptable form of matching. This grant cannot be recovered from the specific users of the systems involved, but rather should be derived from general revenue, collected on the broadest possible State-wide tax base. The Committee takes strong exception to the policy of allowing State loans to communities as a basis for eligibility for the incentives provided in the 1966 Act. This policy is wholly contrary to the purpose and the intent of the Act. Because of this policy decision the Committee considers that fairness requires that all communities assisted with Federal grants during the period 1966–1971 should be treated as if full State matching grants were available. This provision is discussed later in this report. The fact that this policy decision is a specific reversal of Federal policy, and the fact that this policy decision was not brought to the attention of the Committee by the agency, but rather by affected States, suggests the need for greater coordination and consultation in the development and implementation of regulations to carry out this program. The Committee expects consultation with the Committee to take place prior to final action.

Sec. 203—Plans, Specifications and Estimates

The Administrator shall review preliminary plans for any construction project, and is authorized to advance up to 5 percent of the project's cost to assist the community in completing its detailed plans and specifications. Approval of the final plans constitute a contractual obligation of the Federal Government.

An important aspect of this program for the construction of new waste treatment facilities is the maintenance of close coordination between the Administrator, the States, and the communities. This is particularly important during the development of the preliminary plans for any sewage treatment facility. The provisions of this section are intended to foster such cooperation and thus to accelerate approval, construction, and use of new facilities.

Coordination is particularly important at the time that preliminary plans are developed and considered. This section provides that the Administrator shall act on any preliminary plan as soon as possible, and if he approves them, advance to the applicant up to 5 percent of the reasonable estimated cost of construction to assist the applicant in completing the detailed plans and specifications.

The Committee emphasizes that acceptance and financial assistance for any preliminary plan in no way should serve as a Federal commitment that the final design will be approved and financed. The Committee, however, believes that this early consultation, and the preliminary design consideration should hold the number of final rejections to a minimum. If such a rejection should be made, the Administrator is not authorized to recover the 5 percent advance.

Section 204—Grant Conditions

An applicant for any grant must receive from each industrial user a commitment that the user will repay to the Federal Gov-

ernment that portion of the Federal grant allocable to the user's wastes. Each grant applicant must adopt, by July 1, 1973, user charges to assure that each category of recipients of waste treatment services will pay its share of the cost of operating and maintaining the treatment services provided.

In order that Federal grants for the construction of waste treatment works fully implement Federal policy, section 204 sets forth a number of grant conditions to assure that such works are constructed and finally operated and maintained in a manner which will produce the best practicable application of treatment technology.

Section 204 requires that any applicant for a grant must demonstrate that such works conform to all applicable river basin plans, and other applicable waste treatment management plans. In addition such works must be certified by the State as entitled to priority. The proposed treatment works must also qualify for the required permit under section 402 of the Act.

This section also requires that the applicant provide assurance of efficient operation and maintenance throughout the life of the project, and that the applicant further assure the Administrator that each category of user will bear that portion of the project operation and maintenance cost allocable to such category of user.

In order to review the capacity of the proposed treatment works the bill requires the applicant to describe the relationship of the reserve capacity proposed, the current demand and an estimate of any cost for expected expansion of such works in the alternative to including reserve capacity.

The contractual obligation which is authorized under Section 203 is of course, subject to all applicable conditions and limitations under Title II. Accordingly, the failure to comply with conditions either precedent or subsequent, can be viewed as breaches of the contractual obligation and provide the Administrator with a right to rescind such obligation.

Further, the contractual obligation authorized under Section 203 must be understood in the context of Section 205. Considering these two Sections together, it should be clear that a contractual obligation in a fiscal year based upon funds to be available in a future fiscal year (under the scheme of Section 205), limits in the initial obligation to making funds available in the fiscal year in which the obligation would have been made.

Sufficient reserve capacity for municipal waste treatment plants is necessary to provide for (1) overloads that are expected to occur for short periods of time due to daily or seasonal fluctuating demands on the system (other than major storm water overflow), and (2) planned increases in load due to additional population, industrial growth, and other similar factors. Reserves for accommodation of short-term fluctuation must be provided for in the basic plant design. Reserves for long-term increases in load are to be determined on the basis of comparison of the cost of immediately providing such reserves as a part of the works to be funded versus the anticipated cost of providing expanded capacity in the future and immediately prior to when such capacity will be required. It will often be more economical to design the plant from the every beginning to accommodate planned future

loads rather than enlarging the plant or building additional works in the future. Such economy could be due to the constantly increasing cost of construction, quantity savings available for one large project rather than two or more additional projects and the higher cumulative cost for equipment and labor when separate projects are undertaken. There are situations, however, when such other factors as financing unused capacity, deterioration, and giving up of anticipated technological improvements will exceed the benefits to be derived from having long-term reserve capacity constructed in the original plant. Therefore, the Administrator is given the authority in the Act to weigh the comparable costs in providing reserve capacity either immediately or at some future point in time.

Among the significant changes that the Committee recommends in the treatment works construction program is a requirement that each grant applicant shall, as a precondition to grant approval, have in place or agree to impose a system of user charges on the various classes and categories of users who will utilize the treatment works. The committee believes that the user charges will have several important and beneficial results toward the success of the program.

Each system of user charges imposed pursuant to the requirements of the bill must be designed in such a way as to generate sufficient revenues to operate and maintain the treatment works to which it applies. The committee intends that the concept of "maintenance" will be interpreted to include the costs of replacing components of the treatment works at the end of their useful life, so that the useful life of each facility itself will be protected. The committee bill anticipates that the agencies responsible for constructing and operating treatment works will, through the imposition of user charges, become financially self-sufficient with respect to the operation and maintenance (including replacement as defined) of treatment works constructed with assistance pursuant to the Act.

Although the committee is aware of the many different legal and financial circumstances that characterize state and local governments and agencies throughout the country, the bill directs the Administrator to promulgate guidelines for the establishment and imposition of user charge systems as a guide to grant applicants for waste treatment works grants. These guidelines should take into account the diversity of legal and financial factors that exist from jurisdiction to jurisdiction, and each applicant should be permitted reasonable flexibility in the design of a system of user charges that meets the unique requirements of his own jurisdiction. As a general rule, the volume and character of each discharge into a publicly owned system should form the basis of determining the rate at which each user should be required to pay.

The committee devoted a great deal of attention to the difficult issue posed by the discharge of industrial pollutants into publicly owned treatment systems. There is much to be said for encouraging industrial use of public facilities. Each industrial discharge into a public system is one less outfall that must be monitored, and in many cases the economies of scale that characterize public treatment works would permit a net capital saving to the economy as a whole, assuming that the alternative to industrial use of public facilities is the on-site treatment by industry of its own wastes.

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The bill would deal with industrial pollutants in this way: each industrial user of a public system would pay a charge that would include not only that share of operating and maintenance costs allocable to such user but which would also be sufficient to recover that portion of the Federal share of the capital cost of the facility allocable to such user. That portion of the Federal share of the capital cost allocable to each industrial user would be returned to the federal treasury.

The committee believes that this approach to the issue of industrial use of public facilities appeared to the committee to be the most reasonable and equitable one that can be devised. Any scheme that did not provide for full recovery of the Federal share of capital costs allocable to industrial users would clearly constitute a Federal subsidy of private industry and, more particularly, of those industries that were so situated as to make use of public facilities and industries producing wastes that are compatible with public treatment systems. Any other approach would discriminate unfairly against those industries which, for whatever reason, were unable to utilize public systems.

It may be that the Congress will, at some future time, determine that some form of Federal financial assistance to industry in meeting pollution control costs—whether through tax relief, loans, or grants—is appropriate. The committee does not prejudge the propriety or need for such assistance. But the committee does conclude that subsidy of private industry through the waste treatment works grant program would be haphazard and inappropriate.

Discretion is left to the Administrator and to state and local authorities as to the structure of each individual system of user charges. A difficult problem associated with industrial discharges is the calculation of the rate of assessing such charges. Industrial wastes vary considerably in their volume and character. The bill authorizes the Administrator to establish guidelines in the development of industrial user charge rates, which will at the minimum, consider factors such as strength, volume, and delivery flow characteristics of such waste.

The recovery of the Federal share of capital costs allocable to industry will presumably occur over a rather protracted period of time. Factors that might be taken into account in determining the rate of "pay-back" by industrial users should include the term during which any debt incurred for the non-Federal share of the capital cost will be retired and the term during which each industrial user is expected to make use of the facility. Also, a particular industry should repay that portion of the Federal grant that reflects its percentage use of the plant's total capacity, which should include any firm commitment of increased use of the facility by that industry. The committee does not believe it would be wise to require that existing industry's capital share be computed on that industry's share of the wastes actually treated when the facility initiates operation. The committee affirmatively concluded that capital costs recovered from industry should not include an interest component.

It may prove to be the case in certain instances that individual industrial operations will conclude that it will be more economical to treat their own wastes than to discharge into a public system. If and where such instances arise, it is logical to conclude that a net saving to

the taxpayer and to the consumer will result. It is certainly not the intent of the committee to discourage industrial use of public systems. It is the judgment of the committee that the industrial "pay-back" requirement will not discourage such use in most cases. It is clear that the environmental costs should be borne by those who place demands on the environment. User charges carry out this principle.

SECTION 205—ALLOCATION

All allocations to the States under section 205 are to be made on the basis of population. Reallocation of any sums not obligated shall go on a priority basis to States qualifying for 70 percent Federal grants. In fiscal 1972 and 1973 up to $200,000,000 each year may be allotted to projects using advanced waste treatment on a regional scale.

This section provides that sums appropriated or authorized to be obligated for the construction of treatment works under Title II, will be allocated among the States on the basis of population alone. Funds allocated to a State and not utilized by the end of fiscal year for which authorized because of a lack of projects certified by the State as entitled to priority, would be reallocated with preference going to States which contribute, by grant, not less than 10 percent of the costs of treatment works in such State.

In addition to the general allocation and reallocation mechanisms, the Committee believes that special provisions should be included to assure full and timely funding for advance regional metropolitan treatment projects. Accordingly, subsection (d) authorizes the Administrator to provide up to $200 million in each of the first two fiscal years (1972 and 1973) to projects utilizing advanced waste treatment methods for the treatment of wastes on a regional scale for areas with especially severe water pollution control problems. This subsection provides that these funds are to be available unless the amount available for reallocation from the previous fiscal year exceeds $200 million.

One project which requires such additional assistance is the $360 million improvement project for the District of Columbia's waste treatment plant at Blue Plains, which serves the Nation's Capital and large portions of nearby Maryland and Virginia. This project, which includes advanced waste treatment, is now proceeding under an enforcement conference deadline of the end of 1974. All jurisdictions involved are fully committed to contribute full local and State shares as needed.

The Committee strongly believes that the Blue Plains project should not be delayed. While it will not provide a total, long-range solution to the water pollution problems of the Washington area, it is the essential first step in cleaning up the Potomac River. At the 70 per cent Federal-aid level authorized in this bill, the Blue Plains project will require almost $97 million in Federal aid in fiscal 1972 and over $77 million in fiscal 1973, the years of its greatest obligation needs. These funding requirements far exceed the amounts from a population-based allocation formula which would be available to the participating States. The Administrator has assured the Committee that if suitable discretionary authority is provided, the full Federal share of the Blue Plains project will be made available to keep this project on schedule.

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The Committee expects this and other similar advance waste treatment projects to be funded on a priority basis. The Administration should report on funding deficiencies within one year after enactment.

The bill, as reported, contains language in Section 205 to permit those States which want to proceed more rapidly to construct facilities in advance of allocations from funds available for subsequent fiscal years. Experience with the Federal-aid Highway Program clearly shows that there are always States which are ready and willing to move faster than the annual program will allow. If those States and their local subdivisions are willing to "borrow" against future allocations, this legislation will permit them to seek approval by the Administrator of projects for which the Federal share will not be made available until a later date. Projects approved for construction can only be approved if the Administrator is satisfied that the plans and specifications are such that the project would be approved if Federal funds were available. The provision for advance construction together with the provision of contract authority will add greatly to the flexibility of States in moving their programs forward and in meeting the priority for elimination of pollution. Because of the magnitude of the construction task and the limited funds which will be available to States under the authorizations provided for in this Title, some States will have to mobilize the allocation of Federal support funds for two or more years in order to meet their most pressing and most expensive treatment works. The advance construction authority and the obligational authority will enable them to do so.

SEC. 206—REIMBURSEMENT

All projects initiated after June 30, 1966, shall be eligible for a retroactive grant raising the Federal share on those projects to at least 50 percent. The money must be spent to retire a project's indebtedness or to finance the local share of a new project. $2,000,000,000 is authorized to meet the post-1966 reimbursement. $400,000,000 is also authorized to reimburse 1956–66 projects to a 30 percent Federal grant level.

Section 206 provides for reimbursement to states, municipalities, intermunicipal agencies, or interstate agencies for projects constructed by them for which the full Federal contribution to which they were entitled was not received.

The Committee determined that it is equitable, reasonable, and consistent with congressional intent that the Federal Government provide sufficient and timely reimbursement of funds to States and localities which have prefinanced a portion of the Federal share of the eligible cost of construction of waste treatment facilities.

Section 8(c) of the Federal Water Pollution Control Act, as amended (by the Clean Water Restoration Act of 1966), served as an incentive to 29 States to accelerate the initiation of municipal water pollution control projects ahead of the availability of Federal appropriations. States and local municipalities proceeded to commit their own fiscal resources to pay a portion of the Federal share of the cost of construction on the premise that "allotments for any fiscal year ending prior to July 1, 1971, shall also be available for payments in reim-

bursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if such project had been approved pursuant to this section and adequate funds had been available."

However, because adequate funds were not available prior to the end of fiscal year 1971, the reimbursable balance outstanding as of July 1, 1971 totaled $1.63 billion, representing 1,305 projects in 29 States. Many of these projects would not have been undertaken had not the States proceeded with the clear understanding that Federal reimbursement would eventually be forthcoming.

Section 8(c) of the Act specifically states that a finding by the Administrator that a project meets the requirements of the Act shall not be construed to constitute a commitment or obligation by the Federal government to reimburse such a project. However, the Committee believes that the Congress has a moral commitment to reimburse States and municipalities for funds they applied to the Federal share of eligible sewage treatment projects.

The Committee further recognizes that funds committed to advance the Federal share are now urgently needed by the States and municipalities to finance their share of new projects which are essential to implementing the purposes of this Act. For these reasons it is the policy of this Committee to provide full reimbursement for all projects constructed without full assistance.

The Committee was anxious to establish a formula by which it would be possible to "make whole" those who responded to the national need and to congressional urging to accelerate their local effort to clean up the Nation's waterways, but had not received as much money under the Federal grant program as they could have utilized to build facilities that qualified for a Federal grant. In particular, many large cities failed to receive full Federal contributions of 30 percent because of individual project limitations ($250,000 per project during the period 1956 through 1961 and $600,000 through 1966) and because of inadequate appropriations for the construction grant program. The Committee was informed, for example, that a group of the Nations largest cities serving approximately 47½ million people received Federal contributions totaling about $92.5 million for the period 1956 through 1969, whereas 30 percent of the investment made by those cities totals almost $475 million. Thus, instead of receiving the full 30 percent, the group of cities received less than 6 percent. Many of these cities have exhausted or very nearly exhausted their own capacity to raise funds for water treatment facilities as a result of their early efforts. Thus, the reimbursement provision would enable them either to redeem outstanding indebtedness incurred for water treatment facilities or to use the funds to which they are entitled under section 206 to finance the local share of projects to be constructed in the future under the program.

A project initiated between 1956 and 1966 will not be eligible for reimbursement under this subsection unless it was approved by the State water pollution control agency at or before the time construction was initiated. Furthermore, it will not be eligible unless it was also approved at or before such time by the Secretary of Health, Education and Welfare, if the project was submitted to him for approval.

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If the project was not submitted for approval, it will not be eligible unless the Administrator determines that it was designed and constructed in accordance with the requirements of the Act, and regulations thereunder, in effect at the time that construction was initiated. The burden of establishing such compliance is on the applicant. Payments on account of any project which meets the requirements of this subsection may not exceed the difference between the amount of any Federal assistance already received for such project, and 30% of the reasonable costs of construction.

Under the 1966 Act, applicants were eligible for Federal contributions greater than 30 percent depending upon actions taken by the individual states in accordance with the provisions spelled out in the Act. In part because of the failure of Congress to appropriate adequate funds, many states did not create complementary financial assistance programs to qualify for the increased Federal share authorized by the 1966 Act.

The Committee concluded that the municipalities in such states should not be penalized by state inaction.

Thus, the bill authorizes projects constructed between July 1, 1966, and the enactment of this bill to receive a retroactive contribution that will provide Federal financing on all such projects up to the sum that the community would have received if it had received an initial 50 percent grant. Although the Federal share could have been as high as 55% under the 1966 Act, the Committee believes that the 50% figure was more appropriate.

Any project initiated after June 30, 1966, and eligible for any level of Federal assistance under the existing Act, shall, apart from any other consideration, be eligible for retroactive Federal assistance equal to not less than 50% of the project cost.

The 50 percent retroactive payment does not alter the right of some communities to receive a retroactive payment of 55 percent if that project fully qualified for a 55 percent grant prior to enactment of this Act.

Under the recommended language, each applying agency will be required to demonstrate to the Administrator that the projects for which reimbursement funds are being sought would have been eligible for Federal contributions and were approved by the appropriate State water pollution control agency.

The bill authorizes $2.0 billion for projects to be reimbursed under subsection (a), which applies to the period between 1966 and enactment of the bill, and $400 million for projects reimbursed under subsection (b), which applies to the period 1956–66. There was conflicting data on the estimated total entitlement for subsection (b) projects and, therefore, the Committee decided to call for a study by the Administrator to determine whether more than $400 million would be required and to report on other aspects of the reimbursement program.

The Committee also recommends that, to the extent that the funds made available for subsection (b) are inadequate to cover the total entitlement, funds shall be allocated to each eligible agency on the basis of a ratio determined by the relationship of the available funds to the total of all entitlements under the subsection. It should be noted, however, that it is the Committee's view and intention that

the full amount found to be required for both subsection (a) and subsection (b) entitlement should be authorized and appropriated.

The principle underlying the Committee's recommendation on reimbursement is that the bill should remove any past discrimination against those States, municipalities, or intermunicipal and interstate agencies that did not receive full Federal contributions. It is the view of the Committee that reimbursement funds made available under this provision should be disbursed under a pattern whereby the funds continue to be held by the Federal Government until a reasonable time before they are required for the two purposes for which they may be used under the language of the bill.

Section 207—Grant Authorization

This section authorizes $2,000,000,000 for fiscal year 1972 toward the Federal share of the construction costs of publicly owned sewage treatment facilities. EPA is further authorized to incur obligations, in the form of grant contracts, of $3,000,000,000 in fiscal 1973, $4,000,000,000 in fiscal 1974, and $5,000,000,000 in fiscal 1975 toward the construction of sewage treatment facilities.

Up to 5 percent of the fiscal 1972, 1973, and 1974 funds may be spent to carry out Section 209.

This section provides an authorization of $14 billion for four years for grants to communities for construction of treatment works. The authorizations made available in the form of obligations through contract authority (discussed below). Except in fiscal year 1972 when $2 billion would be made available (an amount already appropriated by the Committees on Appropriations). There would be available $3 billion for fiscal year 1973, $4 billion for fiscal year 1974, and $5 billion for fiscal year 1975.

The $9 billion amounts authorized through fiscal year 1974 is based on an estimated 70 percent of the cost of the $12.6 billion backlog estimated by the Environmental Protection Agency. The Environmental Protection Agency estimate is based on the estimate of needs to provide secondary treatment for all the Nation's sewered communities as well as some additional tertiary treatment where a need has been identified.

The Committee figure reflects the fact that (a) the Environmental Protection Agency calculations only project a demand for Federal funds for three years; (b) the Environmental Protection Agency calculations do not include any treatment works for the Nation's nonsewered urban population; (c) the Environmental Protection Agency calculations do not provide for any investment in the problem of storm and sanitary sewer overflow, which is an essential element to the water pollution control programs in a number of cities; (d) the Environmental Protection Agency calculations apparently do not anticipate joint municipal and industrial waste treatment facilities; and (e) the Environmental Protection Agency calculations did not consider the magnitude of the effort projected by this legislation.

The Committee asked the National League of Cities—United States Conference of Mayors to survey their members' cities to determine the need for Federal construction grant assistance. That study, which has been made a part of the hearing record, identified and estimated a

waste treatment backlog of $33–$37 billion. While the funds authorized by this Act will not provide full Federal assistance to retire a backlog of that magnitude there should be adequate funds for communities to make major inroads into their construction backlog and begin to achieve the kind of a program anticipated by this legislation.

Additionally, this legislation encourages joint municipal-industrial waste treatment facilities construction. As discussed in another section user charges are required as a condition of the Federal grant. Industries using municipal systems will be required to repay that portion of their cost of project attributed to the Federal payment. But communities and industries will be able to benefit from economies of scale, from savings in operation and maintenance costs and, in some instances, from benefits to be derived from the compatibility of wastes to be treated.

The language of subsection (b) of Section 207 provides that funds authorized for fiscal years 1973, 1974, and 1975, shall be available for obligation by contract upon their allocation to the States. The importance of assured Federal financial support to the achievement of the objectives of this title and to our national purpose of cleaning up polluted waterways cannot be overstated. The task is a massive one in terms of the work to be done and the funds to be expended.

In order to insure a properly phased program, States and local governments can go forward only when there is strong assurance that federal funds will be available when needed. The Congress, through the Committees on Appropriations this year, fully funded authorizations for waste treatment facilities. In order to plan for construction of needed facilities and meet the deadlines of this Act, communities must be able to anticipate with some certainty the level of Federal funding available. This can only be obtained through the process known as "contract authority".

Questions have been raised regarding the ability of State and local government to absorb the $14 billion which the bill would authorize over four fiscal years. Testimony before the Committee, experience with the existing water pollution programs, and experience with other major Federal-aid construction programs indicate that it will be possible to build up to the levels of activity required to properly utilize the funds which Title II would authorize for waste treatment facilities construction. The time for actual construction of facilities required to treat municipal and continued municipal and industrial wastes extends over four to seven years. The commitment to pay must be made at the time the project is approved with payment to be made over the construction period.

If Congress places upon State and communities the burden of carrying out this program, it should bind itself to pay the Federal share of the projects costs. The authority for obligation will not bar the Committee on Appropriations from reviewing the manner in which the program is being carried forward.

Section 208—Disbursement

This section is the first sentence of subsection (e) of section 8 of existing law.

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SECTION 209—WASTE TREATMENT MANAGEMENT

This provision seeks to stimulate waste treatment management on a regional basis. The Administrator shall establish guidelines under which each Governor should designate waste management regions. Such regions should cover all sections of each State. An agency for developing the waste management plan for each region is to be similarly designated by the Governor. If the Governor fails to designate, the chief elected local officials in the area shall designate the agency.

Within two years of designation, all such agencies must develop waste treatment management plans consistent with Section 201. A six-month extension may be granted to individual regions. Such a plan must contain waste treatment construction priorities and information on waste treatment needs over 20 years, and create a regulatory program to implement the purposes of Section 201, with controls over industrial discharges and control over the disposal of pollutants onto the land or into subsurface excavation.

The plan must also, if appropriate and to the extent feasible, provide for controls over pollution related to agriculture, mine-water, construction, and salt water intrusion.

The Administrator shall help to finance development of these plans, and the Army Corps of Engineers is authorized, upon request of a Governor, to provide technical assistance to any waste management agency in the development of its plans.

States may request the Secretary of the Army to acquire lands for any needed treatment works.

Once a plan is completed, the Governor shall designate agencies in each region that shall implement the plan, build waste treatment facilities, and assess user charges.

After July 1, 1974, all grants will go to a designated agency, for projects that conform with the waste management plan.

Perhaps the principal cause of inefficiency and poor performance in the management of waste in the metropolitan regions is the incoherent and uncoordinated planning and management that prevails in many areas of the Nation. Adjacent communities and industries are under no mandate to coordinate land use or water quality planning activities. This results in poor overall performance and the proliferation of many direct and indirect discharge sources into receiving waters. Such diffuse and divergent programs not only intensify pollution problems but they prevent the use of economies of scale, efficiency of treatment methods, and, most importantly, coherent, integrated and comprehensive land use management.

Consequently, the Committee has included in the bill a mechanism that would establish planning and management capability throughout each State. The mechanism is initiated by the Administrator who would set forth definitive criteria on those interstate and intrastate areas for which regional waste treatment management plans are to be developed. The Governor, or Governors, after consultation with local elected officials, are required to designate regions for the purpose of developing regional waste management plans.

The agencies designated as planning agencies by the Governor, are entitled at their request to receive from the Administrator financial

and planning assistance in development of plans so that the alternative waste treatment methods may be examined and reviewed and the best one developed for each region. One hundred percent planning grants are available for the first two years and 75 percent grants will be available thereafter. The Governor then submits the plan, along with the designation of an operating agency (or agencies) to carry out such plan, to the Administrator for approval.

A regional planning mechanism will be ineffective if it does not provide an effective means of regulating all sources of pollutants within the region, and if it does not provide an overall management mechanism to assure implementation of any plan developed.

Section 209 requires that any regional plan developed pursuant to this Act not only establish construction priorities for treatment works and identify alternative waste management strategies, but also establish a regulatory program to implement those waste treatment management requirements, regulate the location, modification and construction of facilities in the region, assure that industrial and commercial wastes discharged into any treatment works meet applicable pretreatment requirements, provide for control of residual waste generated in the area, and provide for control over the disposal of pollutants on land or in subsurface excavation in the region.

These specific regulatory functions are in addition to requirements to establish processes to identify and control agriculturally related pollution, mine related pollution, construction related pollution and salt water intrusion. To the extent required to provide uniformity of regulation, a Governor may determine that these processes and procedures should be imposed by the State rather than at the regional level. Should a Governor make this determination and notify the Administrator, the Committee expects that any regional plan submitted for approval would include reference to these controls.

The magnitude of the task and the policy considerations implicit in that task make it essential that the planning operations be conducted under the supervision of regional agencies composed of elected officials. The regulatory functions proposed in this plan will require legislation in many regions. Ordinances and regulations will be required. Metropolitan area plans, land use requirements, and zoning decisions will all be affected by this plan.

The independent functioning of units of government in areas of population concentration without regard to the pollution related requirements of other areas of the same region will not be possible. Uncontrolled growth and expansion and competition among units of government will be reduced if effective environmental controls are to be imposed.

The Committee is cognizant of the impact planning and implementation of these requirements will have but the Committee also recognizes that in those areas of urban and industrial concentration any program which falls short of that defined by this section will be inadequate to protect an environment which is healthful to the people who live within those regions.

The Committee is concerned that adequate planning and preparation is not being given the location, construction, and operation of waste treatment facilities. There has been a tendency in the past to allow a proliferation of investment in waste treatment facilities be-

cause local governmental jurisdictions have been unable or unwilling to work together to jointly construct and operate facilities.

While local jurisdictional differences may be the reason for potential waste inherent in such individual construction operation activities, the Congress cannot permit such practices to continue.

The new legislation provides a Federal contribution to the cost of construction of waste treatment facilities of up to 70 percent. In many instances the local community's share of a project's cost will be as little as 20 percent. This investment of State and Federal funds where made must be strictly regulated to assure that the best facilities are constructed in terms of effluent quality, public investment, population to be served and potential for best operation and maintenance.

The Committee does not have any preconceptions as to what the "best" is. The Committee is convinced that waste treatment methods which will most greatly reduce any discharges into the waterways while avoiding poisoning the land is preferable. However, the Committee also recognizes that many communities cannot apply available alternatives, such as land disposal, because of geographical or physical factors and must rely on improved conventional treatment methods.

The Committee believes that a positive instruction to work on a regional basis is essential to effective implementation of the goals and the deadlines established in this law. This may mean individual waste treatment plants for entire metropolitan areas and it may mean separate, independent treatment plants for each jurisdiction within the area. This decision is to be made as a part of the regional plan to be developed by the local elected officials to be approved by the State and by the Environmental Protection Agency. If this procedure is followed, the chances of success of the program are greatly enhanced.

Section 202 malcer funds available for this program in the form of obligations. Five percent of the funds authorized in each fiscal year shall be available for the purposes of this section.

Without the guarantee of funding implicit in this provision the needed planning will not get under way immediately and approved plans to meet the requirements of Section 201 will not be completed. Failure to have an approved plan will result in ineligibilty for construction grants funds after fiscal year 1974.

Following the approval by the Administrator of a plan and a designated operating agency or agencies, all waste management in the described region must conform to the plan and any grants under this Act shall serve to carry out the plan. In order to assure effective plan implementation, the Governor is required to designate an operating agency (or agencies) within such region. To the extent that existing agencies (county, city, independent district or other) have the authority required and agree to carry out the plan, the Committee would expect them to be designated. Use of existing construction agencies will accelerate application of these regional plans.

It is possible that many of the entities that would be created under Section 209 would be without condemnation authority outside their specific geographical jurisdiction. Since any land-based disposal system will require major land acquisition, the bill provides that where necessary, and approved by the Administrator, the condemnation authority of the Secretary of the Army (acting through the Chief of Engineers) is available to secure land, providing that such land serves

an essential function in the treatment process or is necessary for the disposal of residual waste.

One of the most significant aspects of this year's hearings on the pending legislation was the information presented on the degree to which nonpoint sources contribute to water pollution. Agricultural runoff, animal wastes, soil erosion, fertilizers, pesticides and other farm chemicals that are a part of runoff, construction runoff and siltation from mines and acid mine drainage are major contributors to the Nation's water pollution problem. Little has been done to control this major source of pollution.

It has become clearly established that the waters of the Nation cannot be restored and their quality maintained unless the very complex and difficult problem of nonpoint sources is addressed.

It has been estimated that 700 times as much suspended solids reach the Nation's waters from surface runoff in any period as reach the waters in the discharge of sewage. The volume of such solids from land runoff has been estimated at 4 billion tons each year.

A considerable portion of this runoff is in the form of particles of soil, which may not have any direct impact on the chemical or biological integrity of the waters. Yet the effect of this sediment on water quality can be severe, damaging the esthetic value of lakes and smothering fish spawning grounds.

Land runoff also carries into the Nation's waters animal wastes and fertilizers, which may contribute to eutrophication, as well as pesticide residues and other chemicals that may damage fish or other aquatic organisms.

For the first time, the Committee bill provides a mechanism to establish a program to control the principal nonpoint sources of water pollutants. Section 304 requires that the Administrator develop, in conjunction with other appropriate Federal agencies, information regarding nonpoint sources and their control. Following the publication of this information, each State or regional planning agency under Section 209 is required to develop plans for nonprofit source pollution control after public hearings, and submit that plan, by a time certain, to the Administrator. Specific nonprofit sources must be included within such plan and in each instance the State must identify and each of the specific sources within each category.

The Committee recognizes, at the outset, that many nonpoint sources of pollution are beyond present technology of control. However, there are many programs that can be applied to each of the categories of nonpoint sources and the Committee expects that these controls will be applied as soon as possible.

For instance, in the construction of buildings, parking lots and highways, it is possible to install catch basins or holding ponds for the purposes of settling out silt or sediment before runoff water reaches either storm sewers or the natural drainage system. Also, methods of excavation and storage of fill are available to reduce the susceptibility to erosion.

Another perplexing nonpoint source problem is pollution from mining—strip, surface, and underground. The control of pollution originating from such activities involves regulating mining practices, including where practicable, total elimination of the practice in certain areas because of soil and geologic factors.

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The bill requires identification of nonpoint source activities and development of methods and procedures to control them to the extent possible. The bill also directs the Administrator to perform and support additional research to control these very serious problems.

The present Federal water pollution control program does not consider degradation of water caused by reduction in fresh water flows which produce the intrusion of salt or brackish waters into estuaries and rivers. Salt water intrusion, no less than point sources of discharge, alters significantly the character of the water and the life system it supports. Salt water intrusion often devastates the commercial shellfish industry. It must be accounted for and controlled in any pollution control program. It makes no sense to control salts associated with industrial or municipal waste point sources and allow, at the same time, similar effects to enter the fresh water as a result of intrusion of salt water. Fresh water flows can be reduced from any of a number of causes. The bill requires identification of those causes and establishment of methods to control them so as to minimize the impact of salt water intrusion.

SECTION 210—DEFINITIONS

For the purposes of Title II a number of terms are defined. In addition to the term "construction", present in existing law, definitions are added for "treatment works", "replacement costs", "industrial user", and "grant".

The term "treatment works" includes any device or system for storing, treating, recycling, or reclaiming municipal sewage or industrial wastes of a liquid nature. And in addition to the elements included in existing law, "treatment works" would include acquisition of land to be used in the treatment process (as in land disposal by spray irrigation) or for the ultimate disposal of sludge and other residues.

The term "treatment works" also includes any pipelines that would convey sewage sludge a reasonable distance from a treatment plant to any publicly owned facility constructed for further treatment of those wastes by methods such as composting, or for ultimate disposal on land.

Included within the definition of "treatment works" is "any land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment." By lands which are an integral part of the treatment process, it is intended to refer only to those lands which physically interact with the wastewater or pollutants removed therefrom. Lands which are merely a site for the placement of buildings or equipment are not considered to be a part of the treatment process, and are not included in the cost of construction.

"Another change in the definition of 'treatment works' recommended by the Committee would include facilities for preventing or abating storm water overflows among those eligible for construction grants. Although the existing definition of 'treatment works' could be interpreted to include such facilities, the EPA and its predecessor agencies have mare no construction grants for such facilities." The Administrator has suggested that the cost of constructing facilities to eliminate the combined sewer problem that exists in numerous cities throughout the Nation would be prohibitive. The Committee believes,

however, that it would be unwise to exclude from the construction grant program facilities that in some instances could achieve water quality objectives on a far more economical and efficient basis than through the construction of treatment facilities. For example, the Committee heard testimony to the effect that the water treatment facilities required for Chicago may be reduced by 50 percent or more if a method is developed for storing storm overflows that occur perhaps once or twice a month. Under such circumstances, it is obviously wasteful to construct water treatment facilities adequate to handle peak loads that occur so infrequently, so long as there is a satisfactory alternative method of achieving the same result at a far lower cost. The Committee was also advised of another situation in which, because of the city's topographical and rainfall characteristics, partial separation of combined sewers would prove to be the most efficient method of meeting water quality standard in that community.

It is important, especially in the case of very large systems, that such facilities are eligible to be included in construction grants, so that the long term planning, design and engineering can be undertaken with the understanding that a proposal based on the inclusion of facilities for handling storm overflow will be fairly and reasonably considered by the Administrator.

The term "replacement costs" which is defined to mean "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", is intended to include more than the usual recurring expenses of operation and maintenance. It is intended to include costs of equipment which might be replaced only once or infrequently during the life of the works. It is not intended to include total structural replacement of the building or works itself.

Section 210(d) defines "industrial user" of a waste treatment system. The method chosen is to include all industries classified under "division D-Manufacturing" of the Standard Industrial Classification prepared by the Bureau of the Budget in 1967. In addition, the Administrator of the Environmental Protection Agency is given the authority to include other classes of significant waste producers, as he deems appropriate, through the publication of regulations. This definition permits the Administrator to designate as an "industrial user" any commercial or business enterprise which as a class or as a single installation discharges significant wastes to a municipal system, under the intent of the Act.

The term "grant" means a grant or grant contract, as the context of the bill requires.

TITLE III—STANDARDS AND ENFORCEMENT

Section 301—Effluent Limitations

The discharge of any pollutant is illegal, except as permitted under this section or sections 302, 306, 307, or 402.

By January 1, 1976, all point sources of pollution, except publicly owned treatment works, must have in use the best practicable

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treatment technology or meet any Section 307 pretreatment standard, if the effluent is sent through a publicly owned treatment works.

All publicly owned facilities must utilize secondary treatment by that same date, or within four years of the date that construction was started on any grant project begun prior to June 30, 1974.

By 1981, point sources, other than publicly owned treatment works, must eliminate the discharge of pollutants. An exception to this requirement shall be granted if the owner presents information to the Administrator showing that compliance cannot be attained at a reasonable cost. If that occurs, the discharge limitation for that source shall be the best available technology. The Section 307 pretreatment standard covers any industrial discharge into publicly owned treatment works.

Any publicly owned treatment works that is approved after June 30, 1974, must comply with Section 201.

This section requires that all effluent limitations must be reviewed at least every five years.

A prohibition is declared on the discharge of any radiological, chemical, or biological warfare material, or any high-level radioactive waste.

This section establishes a two-phase program for application of effluent limitations, the first based on technological practicability and the second on technological availability. While the Administrator is not precluded from applying effluent controls based on water quality (where that relationship can be or has been established), the failure to establish a direct relationship will not be an excuse for delay. Phase I, to be implemented by 1976, will require application of the best practicable technology to all industrial pollution sources. Communities will be required to have approved secondary treatment construction programs by the end of Fiscal Year 1974. Phase II, to be implemented by 1981, will require, where no-discharge cannot be attained, application of the best available technology for communities and industries.

This section clearly establishes that the discharge of pollutants is unlawful. Unlike its predecessor program which permitted the discharge of certain amounts of pollutants under the conditions described above, this legislation would clearly establish that no one has the right to pollute—that pollution continues because of technological limits, not because of any inherent right to use the nation's waterways for the purpose of disposing of wastes.

The program proposed by this Section will be implemented through permits issued in Section 402. The Administrator will have the capability and the mandate to press technology and economics to achieve those levels of effluent reduction which he believes to be practicable in the first instance and attainable in the second. Because the program established by this section requires increasingly tougher controls on industry; because industry will be required every five years to re-evaluate its control efforts and to apply the best technology then available; because industries will have to show every five years that no-discharge is not attainable; because of the site peculiarities of certain plants; or because of the economies of joint municipal-industrial treatment, many industrial polluters will choose to discharge their

wastes into municipal systems. However, industry should not expect that the use of municipal systems will avoid the cost or requirements of this Act.

Much of the time the Committee devoted to this Act centered on an effort to resolve the existing water quality program and the separate pollution permit program developing under the 1899 Refuse Act.

The Committee believes that the no-discharge declaration in Section 13 of the 1899 Refuse Act is useful as an enforcement tool. Therefore, this section declares the discharge of pollutants unlawful. The Committee believes it is important to clarify this point: No one has the right to pollute.

But the Committee recognizes the impracticality of any effort to halt all pollution immediately. Therefore, this section provides an exception if the discharge meets the requirements of this section, Section 402, and others listed in the bill.

Under a subsequent section of this bill pretreatment standards are required. Any industrial wastes which are not compatible with, or will not be treated by, conventional municipal waste treatment must be pretreated by the industry choosing to use the municipal treatment works.

Publicly-owned treatment systems must meet the secondary treatment requirement of Phase I and, in Phase II, the mandate requires the best practicable treatment, including recycling and reclamation of wastes confined and contained disposal as set forth in section 201.

Additionally, regional waste treatment management plans developed under section 209 will require the consideration of the best alternatives available to eliminate the discharge of any waste generated in the region and will require overall waste treatment management plans for all areas of the country in order to assure that the requirements for section 201 are carried out, that all alternative control strategies are explored, and that the best available alternative for a particular region is utilized.

Pretreatment requirements, user charges, requirements on municipalities and regional waste management programs should protect against abuse of public systems and public investment by industry.

Additionally, any industry using a publicly owned treatment facility which will not meet the requirements of section 201 by 1981 shall be required to meet the requirement of no-discharge or, if that is not attainable, the best available technology as determined by the Administrator. This requirement should prove to be an effective incentive to cooperative efforts between communities and industries to develop and implement section 209 plans.

The committee emphasizes that this section is not to be construed as reducing any water quality or effluent requirements imposed as a result of the Federal Water Pollution Control Act prior to enactment, or State law. In fact, the Administrator is under a specific obligation to require that level of effluent control which is needed to implement existing water quality standards without regard to the limits of practicability.

The application of Phase I technology to industrial point sources is based upon the control technologies for those sources and to publicly owned sewage treatment works is based upon secondary treatment. It is not based upon ambient water quality considerations. In requiring

best practicable controls to be applied and achieved by 1976, the Committee is incorporating the general requirements established under the 1965 Act for interstate waters. The Committee recognized, however, that the water quality standards established under the 1965 Act may require higher levels of control that can be achieved if only the "best practicable" is applied. It is not the intent of the Committee to in any way restrict the Administrator, or the States from applying higher levels of control than best practicable where necessary to achieve standards established pursuant to the 1965 Act or, in the case of intrastate waters, under similar legislation in any of the States.

In addition, the Committee recognizes that many criteria included in standards applicable to both interstate and intrastate waters are not adequate. For example, only seven States have established criteria for phosphorous for their interstate streams. Since initial approval of standards the need to control phosphate discharges to prevent eutrophication has been established.

Section 301(b)(1)(C) provides adequate authority to apply new information to existing water quality requirements and upgrade effluent limits accordingly.

In other words, wherever the Administrator determines that application of the best practicable treatment requirements of Phase I will not provide for implementation of existing water quality standards for interstate or intrastate streams, he must tighten the requirements against a source of discharge or group of sources.

However, in these cases the Administrator must act quickly. The deadlines established to achieve effluent limitations are strict. Time will be reqiured to achieve any effluent limitations established. Sources of pollution, whether they are cities or industries, must know what the requirements are in order to proceed on schedule with their construction program. In the case of cities, this should not be difficult, because of the existing requirement that a minimum of secondary treatment is maintained for Phase I. Many communities have begun to construct these needed facilities. Others are in the process. Of course others must act quickly to begin construction if they are to meet the deadlines required in the legislation.

Unfortunately, as noted above, little has been done to identify for industry the exact meaning, on a plant-by-plant basis, of the equivalent of secondary treatment. Through the permit program established under section 402, with the help of those States which have effective programs, the Administrator and the States can and should, by mid-1973, be able to apply specific effluent limitations for each industrial source. Application of limitation by that date would provide thirty months for achievement of required levels of reduction.

While some may suggest that this is too short a period, many industries have known that they are expected to achieve the equivalent of secondary treatment and should be in the process of applying control techniques.

In some cases, where industries have done nothing, their capacity to comply may be stretched to the limit. The Committee recognizes this, and suggests that to provide opportunity for further delay would only reward polluters who ignored the requirements of the 1965 Act and penalize those discharge sources who moved quickly to comply.

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Phase II of the Act provides five years to achieve no-discharge or apply the best available technology. By 1976 each discharge sour should have applied for, and received, a permit setting forth tl effluent limitations that will be required in this phase. The Admi istrator should have reviewed the information generated by the ear phases of the water quality inventory in order to determine tho waterways which can be significantly improved by the applicatic of alternative strategies as required by section 302. Those industri and communities located in the areas subject to section 302 will hav the information they need to determine how to proceed to meet mo restrictive requirements. Once the requirements to be met by 1981 a defined, the planning and construction required to meet the 1981 dead line can proceed as expected.

Many industries will be able to anticipate the requirements in Phas II. In those instances where corporate managers know that their bes course is to connect with municipal waste treatment systems, plans ca be made during Phase I to assure that pretreatment standards will b met and to assure that the community will be in compliance with th requirements of section 201.

In other cases, corporate managers will know that closed cycl systems, recycling, and waste reclamation techniques are available t their plants and can be applied as required in Phase II. In those in stances, plans can be made during Phase I and industries can begin im mediately to work toward that objective by 1981.

In still other cases, there will be uncertainty as to the economic im pact of closed cycle systems necessary to meet the no-discharge stand ard or, in fact, as to the availability of such technology. In those cases the corporate managers will be required to make a showing to the Administrator of the facts on which they base a determination that the no-discharge requirement of the Act cannot be attained at a rea sonable cost. If the Administrator finds, on the basis of the showing made, and, after evaluating the achievements of similar facilities, that no-discharge cannot be achieved at the plant in question, the Ad ministrator is required to establish an effluent limitation based on the best technology available (as defined in Sec. 304) to that plant.

"The burden of coming forward to show that a no-discharge stand ard cannot be applied to a specific plant rests on the owner or operator of the pollution source. The Administrator's role is to confirm the facts presented. But the Administrator is not bound by the limits of the information presented by the polluter.

This is important for two reasons. In some instances, polluters may attempt to show that a no-discharge standard cannot be attained by making an incomplete or inaccurate presentation of facts. The Admin istrator, on the other hand, using his own resources, would be able to contradict such a presentation. In other cases, a polluter may lack the resources to determine what technology is available to him. This pol luter may conclude, wrongly, that a no-discharge standard cannot be achieved. In this case, the Administrator, calling on resources avail able to him, can provide guidance to the polluter.

In the latter instance, the Committee expects the Administrator to provide industrial pollution sources with technical information as re quired by section 304 on control technology available to various kinds of plants. This information may well serve as the basis for those pol-

luters with insufficient resources to determine what they may be able to do or not do.

The Committee has established a procedure to continue the program beyond 1981. Under this provision, the procedures and requirements of Phase II would be repeated every five years for those sources of pollution which could not have to achieve the no-discharge requirement in Phase I (if required to meet water quality standards) or Phase II, or in an earlier five-year phase.

SECTION 302—WATER QUALITY RELATED EFFLUENT LIMITATIONS

If any Section 301 effluent limit to be attained by 1981 interferes with the achievement of a water quality assuring protection of public water supplies, the propagation of fish, and swimming, a more restrictive effluent standard must be set to provide such protection. But prior to setting a more restrictive standard, a hearing shall be held to determine the balance between the economic and social costs of such new limitation and the social and economic benefits. If the relationship is unreasonable, the limitation shall be adjusted.

Section 302 is intended to implement the interim goal (identified in Section 101 of the Act) of achieving by 1981, wherever attainable, a standard of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water, and also assures that public water supplies, agricultural and industrial uses will be protected.

To the extent that water quality standards can be used to generate firm data on necessary effluent limitations this enforcement tool should be available. The limitations necessary to achieve a given level of water quality in one reach of a waterway may require more control of effluents than that attainable through application of the best available technology. Where that is desirable to implement the policies of the Act, and feasible, section 302 provides the authority to impose controls based on water quality.

Where application of the best available control technology (as required for all industrial point sources in "phase II" under section 301(b)(2)) or best practicable treatment (as required for all publicly owned treatment works under section 301(b)(2)) will not attain that standard of water quality, more stringent effluent limitations or alternative control strategies can be imposed. Such limitations would be established for the affected point sources at a level which can reasonably be expected to contribute to the attainment or maintenance of such a standard of water quality.

The concept of "alternative effluent control strategies" is necessary to account for two difficulties in simply setting more stringent effluent limitations than those attainable with the best available control technology, may include elimination of any discharge of pollutants. Compliance with such a limitation, even if demonstrably not sufficient to reach a given water quality standard, could not be improved upon with a more stringent effluent limitation. Secondly, further reduction of the level of effluent entering the affected waters may not be possible through control technology, yet essential to water quality. Alternative effluent control strategies, such as the transportation of effluents to

other less affected waters or the control of in-plant processes would have to be developed.

Prior to establishing a water quality related effluent limitation under the authority of this section, the State or the Administrator would be required to give public notice and hold a hearing. At the hearing, evidence would be taken on the relationship of the economic and social costs of achieving the proposed limitation (including possible economic or social dislocation in affected communities), to the economic and social benefits to be obtained. The communities affected for the purpose of assessing dislocation, are only those from which the point source or sources in question draws significant numbers of employees. The hearing would also provide a base for determining whether proposed effluent limitations can be implemented with available technology or alternative strategies.

To obtain an adjustment of a proposed effluent limitation under this section, the owner or operator of an affected point source must demonstrate at the hearing that there is no reasonable relationship between the economic and social costs and the benefits to be obtained. The owner or operator of such a source must carry this burden regardless of whether technology or alternative strategies are available to implement the proposed limitation.

The Committee has included language in this section requiring that in the determination of effluent limitations based on water qaulity, consideration must be given, on a case-by-case basis, to a balancing of the economic and social costs against the social and economic benefits sought to be obtained.

The Committee believes that there must be a reasonable relationship between costs and benefits if there is to be an effective and workable program. The projected economic costs of establishing the limitations and strategies contemplated under this section include increased overhead, possible job losses, projected production cutbacks, and loss of revenue to the community. Full weight shall be given to such readily quantifiable factors.

Balancing economic costs against what may be considered intangible social benefits is difficult. Some economic benefits can be calculated with reasonable accuracy. These include savings of the costs to public health of polluted waters, the costs of lowered property values along polluted lakes and rivers, the cost to the community of lower tax revenues and an unattractive business climate, the loss of future industry and jobs because of severe pollution problems, as well as the expansion of recreational opportunities available to the general public, including lower-income persons who rely heavily on public recreation facilities; transportation and other savings through the provision of recreation sites in closer proximity to densely populated areas; and the impact of not imposing proposed effluent controls and strategies on neighboring communities. Benefits more difficult to calculate such as long-term improvement of water quality and reduction of estuarine and ocean pollution should not be ignored.

Another factor to be taken into consideration is the availability of Federal, State or local adjustment assistance to individuals affected by any economic or social dislocation from pollution abatement. Any balancing of costs and benefits should take into account the nature of the receiving waters and the feasibility of their use

for recreational purposes, and the recreational and aesthetic values of maintaining a balanced population of shellfish, fish and wildlife in the particular waterway.

The Committee recognizes that no mathematical balance can be achieved in considering relative costs and benefits nor would any precise formula be desirable, but in each case the Administrator or the State will be able to determine whether there is any reasonable connection at all between the costs which a particular effluent limitation would impose and any benefits (including the attainment of natural water quality) which might be derived.

In all cases, the proposed effluent limitations shall not operate to delay the application of any effluent limitation established under section 301. Section 302 is intended to furnish a supplemental basis for improving water quality, and not to be a cause for delay in executing the requirements of Section 301, or for requiring any less stringent effluent limitations.

Section 303—Aquaculture

After public hearings, the Administrator may allow discharges of pollutants for approved agriculture projects.

The language of Section 303(a) is intended to refer to localized portions of waterways where predetermined and controlled quantities of specified pollutants may be added in order to increase the growth of particular fish, shellfish or other species for a designed beneficial use by man. Such projects as the building of artificial reefs by use of inert bulk solids, the use of some nutrients for the growth of selected algae to be fed to fishes in a confined or controlled area, the promotion of growth of certain aquatic plants such as water hyacinth for subsequent use as animal fodder, are examples of projects which are intended to be permitted on an experimental basis under Federal or State supervision and approval. It is intended that no pollutants be permitted to migrate from the aquaculture project to cause pollution elsewhere. The addition of heat to a waterbody, for example, is not intended to be permitted, unless it is shown in advance, to the satisfaction of Federal or State environmental protection authorities, that such pollutant will be released in a controlled and confined way for the purpose of growing aquatic organisms which will be harvested and used beneficially, according to preapproved plans. In no event is a project to be approved which disturbs the integrity of waters outside the approved project area.

In Section 303(b) the Administrator is required to establish procedures and guidelines which would (1) assure confinement of the pollutant additions to the aquaculture area; (2) determine whether the inert bulk solids, the use of some nutrients for the growth of selected additions will produce the desired benefits, that the desired organisms will be harvested or otherwise used; and minimum control and management requirements.

Section 304—Information and Guidelines

Within one year after enactment, the Administrator shall publish criteria on water quality. The criteria must reflect the latest

scientific information on the factors needed for a restoration of the natural chemical, physical, and biological integrity of all navigable waters, the factors needed for propagation of fish, shellfish, and wildlife, and the factors needed to allow swimming, together with the effects that individual pollutants have on fish, plant life, beaches, as well as the movement of particular pollutants through the life chain.

Within a year of enactment, the Administrator shall also publish effluent-limitation guidelines that identify the degree of effluent reduction that is attainable through the use of the best practicable technology currently available. Similar guidelines are also required for assessing the degree of effluent reduction attained in the use of the best available technology.

These guidelines shall also specify all factors to take into consideration in assessing both the best practicable technology and best available technology. These include the age of equipment and facilities, the process employed, and the cost of achieving such a reduction.

The Administrator shall also issue information on processes, procedures, and operating methods that will result in the elimination or reduction of pollution discharges in order to meet the Section 306 standards, plus information on alternative waste treatment systems to be considered in Section 201.

The Administrator shall also publish guidelines and procedures on the impact on water quality of hydrographic modification work, as well as guidelines and procedures identifying and controlling pollution from various types of nonpoint sources: agriculture, mining activities, and construction work.

The Administrator shall also publish guidelines on pretreatment standards for pollutants that are not susceptible to treatment by publicly owned treatment works.

Guidelines for the test procedures that will analyze pollutants must be published by the Administrator, in addition to guidelines for the monitoring, reporting, and enforcement requirements to be included in any State program delegated under Section 402.

An authorization for this section is set at $100,000,000 for fiscal year 1973, and each year thereafter.

The development of information which describes the relationship of pollutants to water quality is essential for carrying out the objective of the Act. This information, known as criteria, is required under Section 304(a) to be developed and published by the Administrator and issued to the states and public. Criteria to be developed in this section should draw upon the best scientific knowledge on the subject, including information, if any, from the National Academy of Sciences, the U.S. Geological Survey in the Department of Interior, scholarly literature, academic experts, and other sources.

Criteria establish the effects of pollutants on health or welfare, including the effects of pollutants on receiving water ecosystems and man, and identify the natural chemical, psysical and biological integrity of the Nation's waters. The concentration and dispersal of pollutants and their by-products through biological, physical and chemical

processes and any related changes in the diversity, productivity, or stability of receiving water ecosystems would be part of the information provided.

The "natural . . . integrity" of the waters may be determined partially by consultation of historical records on species composition, partially from ecological studies of the area or comparable habitats; partially from modeling studies which make estimations of the balanced natural ecosystem based on the information available. It is expected that the ultimate mechanism for the restoration and maintenance of the natural integrity of the waters will be the complete cessation of discharge of pollutants into waters. Prevention of the migration of pollutants into groundwaters or to estuaries and oceans should be considered in publishing such information.

It is the Committee's intention that pursuant to subsection 301(b)(1)(A), and Section 304(b) the Administrator will interpret the term "best practicable" when applied to various categories of industries as a basis for specifying clear and precise effluent limitations to be implemented by January 1, 1976. In defining best practicable for any given industrial category, the Committee expects the Administrator to take a number of factors into account. These factors should include the age of the plants, their size and the unit processes involved and the cost of applying such controls. In effect, for any industrial category, the Committee expects the Administrator to define a range of discharge levels, above a certain base level applicable to all plants within that category. In applying effluent limitations to any individual plant, the factors cited above should be applied to that specific plant. In no case, however, should any plant be allowed to discharge more pollutants per unit of production than is defined by that base level.

The Administrator should establish the range of best practicable levels based upon the average of the best existing performance by plants of various sizes, ages, and unit processes within each industrial category. It is acknowledged that in those industrial categories where present practices are uniformly inadequate, the Administrator may determine best practicable to require higher levels of control than any currently in place if he determines the technology to achieve those higher levels can be practicably applied.

Best practicable can be assumed to substitute for the present terminology "equivalent of secondary treatment for industry but this interpretation should not be construed as limiting the authority of the Administrator.

Under the Phase II the Committee intends that effluent limitations be based upon application of best available technology as defined by the Administrator. In making the determination of "best available" the Committee expects the Administrator to apply the same principles involved in making the determination of best practicable as outlined above except that rather than the range of levels established in reference to the average of the best performers in an industrial category the range should at a minimum be referenced to the best performer in any industrial category.

The distinction between best practicable and best available is intended to reflect the Committee's intent press toward increasingly higher levels of control, applied over five year periods. Through research and development of new processes, modifications, replacement

of obsolete plants and processes, and other improvements in technology, the Commitee anticipates that it should be possible, taking into account the cost of controls, to achieve, by 1981 levels of control approaching 95–99 percent reduction of pollutants discharged in most cases and complete recycling in the remainder.

In establishing the levels of best practicable and best available technology for point sources the Administrator should not ignore discharges resulting from point sources other than pipelines or similar conduits. For instance, the Administrator must give proper attention to the control of dredge spoil disposal and fill operations especially in light of the Committee's action in striking the limitation contained in the Rivers and Harbors Act of 1970, thereby making diked disposal areas, previously available only in the Great Lakes, available nationally.

There are many other forms of periodic, though frequent, discharges of pollutants into the water through point sources such as barges, vessels, feedlots, trucks and other conveyances. The Administrator is required to publish information on the best practicable and best available control technology including alternative disposal methods for these sources. The Administrator should also issue regulations regarding discharges resulting from the deposit of residues from various manufacturing processes to assure control of periodic, as well as continuous discharges into the navigable waters can be developed and implemented.

Water quality is intended to refer to the biological, chemical and physical parameters of aquatic ecosystems, and is intended to include reference to key species, natural temperature and current flow patterns, and other characteristics which help describe ecosystem integrity.

Criteria would also include a description of the factors related to rates of eutrophication and the rates of accumulation of organic and inorganic sediment.

The criteria will allow the translation of the narrative of the general objective of the Act to specific and precise parameters.

Subsection (b) of this section requires the Administrator, within one year after enactment, to publish guidelines for setting effluent limitations reflecting the mandate of section 301, which will be imposed as conditions of permits issued under section 402. These guidelines would identify what constituted the "best practicable control technology currently available" and the "best available control measures and practices," and the degree of effluent reduction attainable through the application of each. Thus, these guidelines would define the effluent limitations required by the first and second phases of the program established under section 301. In addition, the Administrator would identify control measures and practices available to eliminate the discharge of pollutants from any category of point sources, to allow the full implementation of the objectives of the Act.

As used in this bill the concept "best available control technology" is intended to mean that the Administrator should examine the degree of effluent control that has been or can be achieved through the application of technology which is available or normally can be made available. This does not mean that the technology must be in actual

routine use somewhere. It does mean that the technology must be available at a cost and at a time which the Administrator determines to be reasonable, and that the technology has been adequately demonstrated if not routinely applied.

In order to reflect the change in emphasis of the Federal Water Pollution Control Act, the Administrator is required to issue information to the States and to the public on the processes, procedures, and methods to control pollution related to non-point sources. Included within this category are activities such as agriculture, forestry, mining, construction, disposal of material in wells, and salt water intrusion. While many of these activities are the subject, directly or indirectly, of Federal programs established for other purposes, the bill for the first time directs attention to these activities in the context of integrated water pollution control. It should be clear that the Committee does not intend that the Administrator should develop information on these subjects completely independently. Rather, to the extent possible, he should utilize the existing knowledge and existing programs of other Federal agencies and incorporate the fruits of such programs into the information published under this section.

In order to further carry out this intent, the Administrator is instructed to enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, to fully incorporate programs conducted in their Departments in carrying out the objectives of the Act. The Administrator is authorized to transfer the funds provided under this section to those other Secretaries, in order to further enhance those programs for water pollution control.

The Committee recognizes that the Department of Agriculture, for instance, has authority to give technical and financial assistance, and carry out research to promote sound land use and control pollution by reducing erosion and runoff, providing for the orderly removal of excess water and efficient use of irrigation water, and installation of systems for management, storing, and recycling of animal and poultry wastes and other agricultural related pollutants. A considerable portion of this authority is administered through the REAP (Rural Environmental Assistance Program) which the Committee strongly endorses and hopes can be, to the extent feasible, integrated into the water pollution control program.

Sediment, often associated with agricultural activities, is by volume our major pollutant, not only from the degrading effect of the sediment, but because it also transports other pollutants. Fertilizer and pesticide runoff are also major agricultural non-point sources. Poor forestry practices, including indiscriminate clear cutting, may also generate substantial soil erosion problems. The full utilization of agricultural conservation techniques will be an important part of control of non-point sources called for under section 209.

Another phenomena associated with construction is, of course, the effect of completed projects upon the hydrologic cycle. One of the common problems associated with pollution control is the dramatic increase in storm runoff when the earth's surface is made impermeable. Thus highways, building, and parking lots all contribute substantially to the accelerated runoff of rainwater into natural water systems. The greater volumes and greater velocity produced cause high rates of erosion and siltation. In addition, highway runoff often

includes oil, rubber particles, lead, asbestos and other elements or additives deposited on highways as a result of vehicular traffic. Recent studies have shown that this source of pollutants is growing in its magnitude and deserves prompt attention by the Administrator. The magnitude and deserves prompt attention by the Administrator.

The Committee would hope, therefore, that information will be published making clear the responsibilities of those making surfaces impermeable, especially large expanses such as shopping centers, major highways and large buildings, to provide as part of the construction either catch basins or other methods to hold the water, at least temporarily, so that during storms peak flows do not run off the land and into the natural water courses.

Guidelines for disposal of material in deep wells may range from provisions for evaluating geological characteristics of disposal sites to the costs and benefits of alternative methods of disposal. For shallower disposal sites, the main concern is for groundwater contamination. Provisions should be outlined to control leaching of materials from such sites, which include land-fill sites as well as abandoned mines.

Among the causes of salt water intrusion for which information on methods of control is needed are intrusions caused by withdrawal of subsurface fluids such as petroleum and fresh water. Information must be generated on problems related to from leaching of ores and waste piles, and acid from the dissolving of acid salts formed on exposed spoil surfaces or added to groundwater percolating through spoil or waste dumps.

Procedures to control soil erosion must be described, including methods to inhibit loss of nutrients and organic matter from exposed soils to the stream. Procedures for rapid revegetation of mined surfaces should be described, including possibilities of use of sewage sludge as a soil conditioner. Methods for killing the bacteria that produce or release acids in mines should be evaluated. Methods of ore extraction and waste ore disposal could be described which will prevent loss of toxic and other pollutants to waterways. Access roads should be built to avoid soil erosion and minimize disturbance of the regional hydrology. Information should be published for the nonpoint source pollution associated with hydraulic mining, under-sea mineral exploitation, and off-shore oil exploration.

Soil erosion from construction sites can be controlled by temporary terracing, retention ponds, and other means. Information should be provided, in addition, on ways to insure that the facility so constructed has adequate ways of preventing soil erosion and confining runoff.

Water pollution effects from mining activities include sediment from sand and gravel pit mining, from surface mine overburden, from surface excavation procedures, and from dredge and hydraulic mining operations; additions of toxic and other chemical materials from this source have occurred both in coastal regions, such as Florida, and in mid-continent areas, such as Oklahoma and Texas. Increased salinity may result from withdrawal of water from the headwaters of a river, and especially from repeated cycles of irrigation. The return of heated water to water bodies, increasing the evaporation rate, has accelerated the concentration of salts. Situations such as these and others must be considered in the guidelines.

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Another factor for consideration is the temporary or permanent obstruction or diversion of fresh water flows in the construction of a dam or other facility, which may also cause salt water intrusion from estuaries.

Section 304 also requires the Administrator to publish information on processes, procedures, or operating methods resulting in the elimination or reduction of the discharge of pollutants. This information is necessary to implement the standards of performance for new sources under section 306, and alternative waste treatment management techniques and systems available to implement section 201. He is also required to publish guidelines for establishing pre-treatment standards for pollutants discharged into publicly owned treatment works, and guidelines establishing procedures and test protocols for the analysis of pollutants in permit applications. It should be noted that this authority is in addition to the authority of the Administrator to establish pre-treatment standards directly under Section 307. The authority contained in Section 304 is intended to generate information to support municipalities and States in establishing pre-treatment requirements necessary for effective and efficient use of treatment works. The Committee acknowledges that pre-treatment standards established under Section 307 would generally be national in scope and addressed to the most significant pre-treatment problem. There will remain many pre-treatment requirements and conditions which must be incorporated into all treatment works systems by municipalities to govern the influx of industrial waste and the Administrator is instructed to provide assistance in the form of guidelines. In the case of each of these requirements, information or guidelines would be updated annually.

In addition, the Administrator is required to issue information on methods, procedures and processes useful in restoring and enhancing the quality of publicly owned fresh water lakes.

Within 30 days after enactment, section 304(h) requires the Administrator to promulgate guidelines establishing the minimum requirements for the acquisition of information from owners and operators of point sources applying for permits under section 402. It is intended that the program under Section 402 will, even after incorporation of any or all States, be uniform in as many procedural requirements as possible. This is especially true of application forms and the actual permit forms. This should not, however, be construed to limit States from establishing any requirements necessary in addition to the basic forms and procedures. Within 90 days after enactment, the Administrator must promulgate guidelines, in accordance with section 402, establishing the minimum elements of a State permit program submitted to him for approval.

It is acknowledged that the time allotted for publication of information under this section, is short. The Committee expects however, that the Refuse Act experience should enable the Administrator to comply. In addition, of course, the Committee desires to make it possible for State programs to qualify for participation in the permit program under section 402 as soon as possible after the date of enactment. This will only be possible if general guidelines establishing the minimum requirements for such program are published at an early date.

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SECTION 305—WATER QUALITY INVENTORY

The Administrator is required to send to Congress by July 1, 1973, a report that describes the specific quality of all U.S. waters as of January 1, 1973. The report must identify and inventory all point sources of discharge together with an analysis of each discharge.

Those navigable waters that presently allow swimming and provide protection for the propagation of fish must be identified in the report. Those waters that will meet such a level of water quality by 1976 or 1981 must be identified, as well as those waters that will meet that level of quality at some later date.

Each State must submit by July 1, 1974, and annually thereafter, a report that describes the existing water quality on all its navigable waters. The report must correlate the existing water quality with the water quality described in the criteria published under Section 304(a), plus an analysis of the extent to which all navigable waters in the State provide for the protection of fish and allow swimming.

Each State is further required to submit an estimate on the economic and social costs that will be necessary to achieve that high quality water, an analysis of the economic and social benefits of achieving that water quality, and an estimate of the date it will be achieved. The report should also describe the nature and extent of nonpoint sources of pollution, programs to control such sources, and the cost of such programs.

Much of the information on which the present water quality program is based is inadequate and incomplete. The fact that a clearly defined relationship between effluent discharge and water quality has not been established is evidence of that information gap. The fact that mixing zones have been permitted so is is indication of the information gap. The fact that assimilative capacity has been the essential factor in the existing control program is evidence of the information gap. The fact that many industrial pollutants continue to be discharged in ignorance of their effect on the water environment is evidence of the information gap.

The Committee recognizes that there are technical limitations on what can be done to achieve elimination of the discharge of pollutants. But more importantly, the Committee is concerned that program administrators and enforcement officers do not know what those technical limits are. It can be generally stated that inadequate information exists on the degree to which pollution could be eliminated now and what the cost of that effort would be.

More significantly, the Committee is concerned that program administrators and enforcement officers do not have adequate information on the range of controls that could be applied to types of plants within various industries. For example, after six years under the Water Quality Act, pursuant to which a guideline was established that each industry must meet "a minimum of secondary treatment or its equivalent." Six years later, program administrators cannot identify the equivalent of secondary treatment for each industry. This information gap within the State and Federal agencies administering this program is a cause for major national concern.

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Some of this uncertainty should be resolved by Section 304, which requires the establishment of regulations setting forth guidelines on effluent limitations which can be achieved from application of various control techniques and which requires the establishment of Federal water quality criteria so that a uniform (to the extent apprapriate) the basis can be set for determining the levels of pollution at which various effects occur.

Sections 104 and 105 (if properly implemented) should provide more specific information on which to base Section 304 regulations. If the Administrator focuses attention on those areas in which information is inadequate, there should be a considerably greater ability to make sound judgments under Phase II than there will be with Phase I.

This Section requires a national water quality inventory. The Administrator is directed to inventory the quality of the Nation's waters and identify the extent to which existing quality meets, exceeds, or falls short of the goals established in this Act.

The Committee wants to know what waters are in their natural state and where they are located. The Committee wants to know what waters are of the quality which will assure protection and propagation of fish, shellfish, and wildlife. And the Committee wants to know what waters are safe for swimming. The Committee wants information on those waters which fail to meet high quality requirements, where they are located, and the reason for failure. The Committee expects a full and complete inventory of municipal and industrial waste discharged including a quantitative and qualitative evaluation of the pollutants those sources. The statutory mandate as well as the necessary backup authority for information acquisition in Section 308 and subpena power under 501 is available exists to carry out the functions of this Section.

With the above data accumulated, the Administrator and the States can and should be able to begin to identify where the goals of this Act will not be met, what levels of control will be required to meet them, and what the overall economic and enviromental impact of the elimination of pollutants will be. By the 94th Congress, the Committee on Pubic Works can carefully review this program to identify those additional steps which must be taken to assure the achievement of the goal of this Act by 1985.

This Committee is under no illusions as to the ease of the task set out. But, to those who express concern as to the magnitude of the cost of what this legislation proposes, the Committee would call attention to information supplied by the Administration which indicates that a 95–99 percent reduction of industrial and municipal pollutants can be achieved through contemporary, admittedly obsolete and expensive technology such as that represented in the tertiary system installed at Lake Tahoe, in the next decade for a capital cost of approximately $35.3 billion.

According to these estimates, operating and maintenance costs for that investment over a 20–25 year time frame would be $83.5 billion. A national investment of $3.5 billion a year for the elimination of 95–99 percent of pollutants must be considered in relation to the Committee's anticipation that at least $12 billion will be required to provide secondary treatment to the Nation's sewered population in Phase I of

the program. And, no one is under any illusion that that $12 billion investment in municipal waste treatment plants will implement existing water quality standards in many areas of the Nation, much less meet the goals of this Act.

The Committee recognizes that these figures may be conservative. It also notes that the Administration has estimated that the cost of removal of the final 1 percent of pollutants may exceed the cost of removing the initial 99 percent of pollutants. The Administration's estimate of the capital cost to achieve 100 percent pollution control for point sources is $94.5 billion.

The Committee also recognizes that even with application of a no-discharge standard where attainable at reasonable cost and, where not attainable, the best available technology, no better than 99 percent pollutant removal can be expected by 1981.

What the Congress must decide in 1976–1977, on the basis of the information provided by the inventory and evaluation required by this Section, is whether or not the additional levels of control required to completely eliminate pollutants are technically available, and if so, whether the ecological and water quality benefits to be derived worth the economic and social cost to be incurred. Having this information shortly after mid-decade will provide the Congress with a unique opportunity to make a mid-course correction in moving toward a 1985 goal. This policy evaluation is essential in order to balance the long-term program costs projected by this legislation with the Nation's priorities as they will be established in 1976–1977 and beyond.

Section 306—National Standards of Performance

New sources of pollution in at least twenty-eight specified industries must be constructed to meet a standard that reflects the greatest degree of effluent reduction that can be achieved by use of the latest available control technology. If it is practicable, this could be a standard that permits no discharge of pollution. EPA must promulgate the best available technology standard for each industry. That technology must be followed by each plant which by modification becomes subject to the new source standards, unless the economic and social costs of achieving such a standard far exceeds the social and economic benefits. If that occurs, a lesser standard will be promulgated.

The Administrator may distinguish among classes and sizes of new sources. He may also delegate this authority to individual States if they develop procedures for setting and enforcing such standards.

The Committee believes that this section, which is designed to assure that new stationary sources of water pollution are designed, built, equipped, and operated to minimize the discharge of pollutants, is among the most significant in the legislation.

Under the provisions of the bill, the standards of performance for new source of water pollution would require the achievement of the greatest degree of pollution reduction that can be achieved through the application of the best available effluent control technology and ultimately, to eliminate space. Such a maximum use of available means

to prevent and control water pollution is essential to the prevention of new pollution problems and the eventual attainment of the goal of no-discharge.

It should be noted that the Committee considered use of the phrase "latest available control technology," but rejected it in favor of "best available control technology."

The Committee agreed that, although used in the Clean Air Act, the term "latest" may not (as intended) be interpreted as the best. The Committee has substituted the word "best" in this bill to make clear its intention.

As used in this section, the term "available control technology" is intended to direct the Administrator to examine the degree of effluent reduction that has been or can be achieved through the application of technology which is available or normally can be made available. This does not mean that the technology must be in actual, routine use somewhere. Rather, it means that the technology must be available at a cost and at a time which the Administrator determines to be reasonable.

The implicit consideration of economic factors in determining whether technology is "available" should not affect the usefulness of this section. The overriding purpose of this section would be to prevent new water pollution problems, and toward that end, maximum feasible control of new sources, at the time of their construction, is considered by the Committee to be the most effective and, in the long run, the least expensive approach to pollution control.

This section requires that the Administrator, within 90 days following enactment of this Act, publish a list of categories of industrial groups for which he will establish standards of performance. The Committee has specified 28 industrial groups for which, at a minimum, the Administrator must establish national standards of performance:

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;
cotton ginning;
phosphate manufacturing;

steam electric powerplants;
ferroalloy manufacturing;
leather tanning and finishing;
glass and asbestos manufacturing;
rubber processing; and
timber products processing.

The Administrator has authority to add to this list when he finds that any other category of new sources falls within the requirement of this section.

The Committee agreed not to include in its list of new sources nuclear fuels processing plants. The Environmental Protection Agency indicated that the Agency does not have the technical capability to establish controls for such plants at this time. The Committee, however, expects that EPA will develop the capability that is required to implement the purpose of this Act, as well as to carry out the functions delegated to the Agency in Reorganization Plan No. 3. The Bureau of Radiological Health, which was transferred to the Environmental Protection Agency, should have the capacity to determine those levels of control which can be achieved for nuclear fuels processing plants. If they do not, such a capability should be developed and this particular source should be added to the list of new sources as soon as possible.

Within one year of the publication of the list, or any eventual additions to the list, the Administrator shall publish proposed regulations establishing a standard of performance for each type of industry on the Administrator's list. The section gives interested persons and industries 60 days in which to comment on those proposed regulations.

By the end of that 60-day period, the Administrator shall promulgate a standard providing for the application of the "best available control technology". If the owner or operator of a modified source can demonstrate to the Administrator that the economic and social costs of implementing such a standard bears "no reasonable relationship" to the social and economic benefits that would be obtained from such standard, the Administrator may adjust the standard as it applies to the source. Implicit in any consideration of social and economic benefits is the national objective of clean water.

The term "standard of performance" has not previously appeared in the Federal Water Pollution Control Act, although a similar concept and language was written into the Clean Air Act last year.

The Administrator shall evaluate the level of effluent reduction that can be attained through the application of best available technology. Once he has evaluated what can be accomplished, the Administrator must set the standard at a particular volume of effluent or a particular percentage of effluent reduction. The Committee believes that the greatest public benefit can be achieved when each company in an industrial group is free to make its own, innovative engineering decisions on how to meet that standard. The Administrator should not attempt to dictate the use of specific processes or other methods of control to implement the standard of performance.

A significant aspect of the entire bill is the emphasis placed on development of a cooperative State-Federal approach toward environmental enhancement. The Committee has added a provision to enable the States to participate in a program for apply-

ing new source standards. The Committee language would allow any State to submit to the Administrator a procedure under which the States would apply and enforce standards of performance for new sources for water pollution within that State. If the Administrator considers the procedure to be adequate, he must delegate this responsibility to the State. However the Administrator retains the responsibility for establishing and revising standards of performance. As the States are much closer to the individual problems within their jurisdictions, the Committee believes that such a delegation of Federal authority to the States can lead to the most efficient application of this program.

For the purposes of this section the Committee has defined a "new source" of pollution to be any facility on which construction or modification begins following the publication of the standard of performance by the Administrator. To further clarify the application of this section, the Committee has defined "modification" to mean any physical change in an existing plant, or its method of operation, that increases the amount of water pollutants discharged by the source. In the case of multi-unit plants, the "modification" applies to the particular unit being modified.

Section 307—Toxic and Pretreatment Standards

EPA must publish, within 90 days of enactment, a list of pollutants that are determined to be toxic. Six months later EPA must publish proposed effluent limitations, which could be a prohibition of a discharge, for these pollutants. A hearing will be held within thirty days.

No later than six months after publication of the proposed limitation, EPA must promulgate that published standard unless, based upon a preponderance of the evidence at the hearings, he finds that a variation from the standard is justified. The new standard would be promulgated. Any standard must provide an ample margin of safety.

Subsection (b) requires EPA to set national pretreatment standards for the discharge of pollutants into publicly owned treatment works. These standards must cover pollutants that are not susceptible to treatment at the treatment works or which would interfer with operation of a municipal treatment plant.

The proposed new section 307 would authorize the Administrator to establish effluent standards, which may include a prohibition, applicable to the discharge of toxic water pollutants which the Administrator determines are toxic based on the definition in section 502.

On the basis of information presented to the Committee, it is clear that the definition will encompass a limited number of pollutants. Arsenic, cadmium, mercury, and beryllium as well as certain chlorinated hydrocarbons, have been identified as pollutants which could be subject to effluent standards or prohibitions that would be established under this section. It would be the Administrator's responsibility to determine whether there are additional pollutants which also should be covered under section 307.

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Under an administrative procedure to regulate and control the discharge of such toxic pollutants, the Administrator would, from time to time designate as toxic those pollutants as indicated by available material evidence. Following designation the Administrator would be required to publish a proposed effluent standard or prohibition of the discharge of such pollutants. The Committee has provided the Administrator with authority to differentiate among categories of sources in establishing requirements under this section.

This authority, for example, would give the Administrator the latitude to treat a plant that processes cadmium ore differently than he might treat a plant in which cadmium appears as a trace impurity. A similar ability to differentiate exists in the Clean Air Act.

After public hearings and within six months of the publication of any proposed regulation, the Administrator would be required to promulgate such regulation, unless he found on the basis of a preponderance of the evidence, that a different level of control could be permitted without presenting toxic discharges. Both an initial effluent standard and any modification would be required to provide an ample margin of safety.

The bill would provide that any standard or prohibition should become effective no later than one year after such promulgation. Because of the hazards posed by toxic substances, the committee considers the need for compliance with promulgated standards for toxic substances to be especially urgent. Language in section 307(a)(5) is thus intended to convey that one year be an absolute maximum time allowed for compliance with standards promulgated under this section, and that compliance be required as early as possible within this limit.

Comprehensive water pollution abatement requires that controls should also be extended to any industrial discharge into municipal waste treatment works in order to prevent pollutants from entering such works if they would impair the effectiveness of the waste treatment works or, if they would pass untreated or inadequately treated wastes through the treatment works into the navigable waters. Subsection (b) of section 307 gives the Administrator authority to establish pretreatment standards to control the addition of industrial pollutants to municipal waste treatment systems. It is clear that the Administrator may be unable to establish such standards for all pollutants which require such control. Therefore, the provisions of this section do not relieve municipalities and States from establishing pretreatment standards to control rate, flows, and concentration of industrial discharges into waste treatment works.

The Administrator would be expected to prohibit the discharge of any industrial pollutants which adversely affect functions of conventional treatment works. Conversely there may be industrial wastes which stimulate the performance of conventional treatment works or which are consistent with alternative control strategies. The latter should be identified.

The Committee also expects the Administrator to approve State programs which have adequate pretreatment requirements in order to reduce Federal involvement in this area to an absolute minimum. Guidelines under section 304 should facilitate this transfer of function.

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SECTION 308—INSPECTION, MONITORING, AND ENTRY

The owner or operator of any effluent source must install and maintain pollution monitoring equipment. This includes the monitoring of the biological effects of any discharge. EPA has the right of entry to inspect records, monitoring equipment, and the effluent. EPA my delegate this authority to any State setting up its own program. The public shall have access to any records or reports obtained in this manner, except on a showing that the record or reports would reveal a trade secret.

There are several other objectives which must be considered in establishing criteria for requiring pretreatment. Many of these also may be satisfied by advanced wastewater treatment methods.

Although industrial wastes vary considerably between industries, it is possible to define generally the requirements for pretreatment of industrial wastes prior to discharge into a municipal wastewater system. These are:

First, to enable a conventional sewage treatment to fulfill its ordinary functions by assuring the waste is treatable and does not overload the oxidation facilities, and there are no toxic substances which will degrade the capacity of the treatment system to function properly;

Second, to minimize eutrophication by removing compounds containing nutrients such as phosphorus and nitrogen from major industrial sources;

Third, to produce a combined municipal and industrial waste which is similar to that of domestic sewage with regard to inorganic compounds such as chlorides and sulfates;

Fourth, to reduce damage to sewer lines due to excessively high or low pH's, substantially high temperatures, or other conditions of industrial wastes that may damage sewers;

Fifth, to minimize the introduction of compounds into wastewaters which are not removed by conventional treatment methods but offer a potential for incorporation in food chains such as chlorinated organics and heavy metals; and

Sixth, to produce a sewage treatment plant effluent that can be used for a selected reuse purpose.

When establishing requirements for pretreatment, each of these objectives must be evaluated. Particular emphasis should be given to those contaminants which limit recycling or reuse of treated wastewaters.

A necessary adjunct to the establishment of effective water pollution requirements and the enforcement of such requirements is authority to require information, data, and reports, as well as to establish monitoring requirements. Section 308 establishes authority identical to the authority for such purposes contained in the Clean Air Act Amendments of 1970; except that recognizing such authority is essential to control programs, the Committee removed the element of discretion from the Administration. Through this authority the Administrator can make investigations of buildings, structures, monitoring equipment, or other facilities subject to control requirements established under the Act and authority to enter after presentation of proper

credentials. In addition, the Administrator is authorized to require installation of appropriate monitoring equipment. It should be noted that the Administrator upon a showing is required to hold information, other than effluent data, proprietary.

As under the Clean Air Act, the Committee expects the authority to enter will be used judiciously and upon any challenge to entry the Committee expects the Administrator to obtain the necessary warrant.

It should also be noted that the authority to enter, as under the Clean Air Act, is reserved to the Administrator and his authorized representatives which such representatives must be full time employees of the Environmental Protection Agency. The authority to enter is not extended to contractors with the EPA in pursuit of research and development.

SECTION 309—FEDERAL ENFORCEMENT

When EPA discovers a violation of any effluent limitation, it must provide notice to the polluter and the State. Unless the State initiates enforcement action within 30 days, EPA shall issue an order requiring compliance or bring a civil suit against the polluter.

If widespread violations indicate that the State is failing to enforce the limitations in general, EPA shall notify the State. If this State failure continues beyond another thirty days, EPA shall give public notice and assume enforcement over all effluent limitation requirements in that State.

When EPA finds anyone violating Sections 301, 302, 306, 307, 308, or 402, the agency must either issue an order that requires immediate compliance or bring a civil suit. If this involves Section 308, the order will not take effect until the polluter has an opportunity to confer with EPA. The Administrator shall initiate a civil suit for appropriate relief, such as an injunction, against anyone who refuses to comply with any such abatement order.

Anyone willfully or negligently violating a Section 402 permit or any of several other specific sections of the bill shall be liable to a fine of up to $25,000 per day of violation and one year in jail. For a willful or negligent violation of Sections 301, 302, 306, 307, or 402, the fine shall be not less than $2,500 per day. The penalty for a second conviction shall be up to $50,000 per day and two years in jail.

Anyone who is found to have knowingly made a false statement on any application or report, or who has tampered with a monitoring device, shall be liable to a fine of $10,000 and six months in jail.

In any regulatory program involving Federal and State participation is the allocation or division of enforcement responsibilities is difficult. The Committee, of course, has in the record documentation of the poor enforcement performance under the 1965 Act. The Committee concluded that not only were there weaknesses in the procedures established on enforcement, but more importantly, there were weaknesses in the overall design of enforceable requirements.

In writing the enforcement procedures involving the Federal Government the Committee drew extensively upon the provisions of the Clean Air Act of 1970, and upon the existing enforcement provisions of the Refuse Act of 1899.

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As in the Clean Air Act, the bill reported from the Committee establishes and makes precise new requirements imposed on persons and subject to enforcement. One purpose of these new requirements is to avoid the necessity of lengthy fact finding, investigations, and negotiations at the time of enforcement. Enforcement of violations of requirements under this Act should be based on relatively narrow fact situations requiring a minimum of discretionary decision making or delay.

The bill, therefore, deletes the cumbersome conference and hearing procedures in the existing law. Such administrative procedures were appropriate when the control program was based on ambient water quality and would serve no purpose except delay in an enforcement program based on effluent controls.

Against the background of the Clean Air Act and the Refuse Act the Committee concluded that the enforcement presence of the Federal government shall be concurrent with the enforcement powers of the States. The Committee does not intend this jurisdiction of the Federal government to supplant state enforcement. Rather the Committee intends that the enforcement power of the Federal government be available in cases where States and other appropriate enforcement agencies are not acting expeditiously and vigorously to enforce control requirements.

Under the Refuse Act the Federal government is not constrained in any way from acting against violators. The Committee continues that authority in this Act.

The Committee again, however, notes that the authority of the Federal Government should be used judiciously by the Administrator in those cases deserve Federal action because of their national character, scope, or seriousness. The Committee intends the great volume of enforcement actions be brought by the State. It is clear that the Administrator is not to establish an enforcement bureaucracy but rather to reserve his authority for the cases of paramount interest.

It should be noted that if the Federal, State, and local agencies fail to exercise their enforcement responsibility, the public is provided the right to seek vigorous enforcement action under the citizen suit provisions of section 505.

It should be noted that the Administrator is partially limited in acting under Section 301(a). The Administrator is precluded from acting where the allegation is for failure to acquire a necessary permit under Section 402, if the owner or operator of a discharge has filed an application for such required permit. The Administrator retains, without qualification, the authority presently available under the Refuse Act to prosecute for unlawful discharges.

The distinction between enforcement for violation of an unlawful discharge and enforcement for operating without a required permit under Section 402 is intended to cause the Administrator to act expeditiously to issue permits under Section 402.

The Committee further recognizes that sanctions under existing law have not been sufficient to encourage compliance with the provisions of Federal Water Pollution Control Act. Therefore, the Committee proposes to increase significantly the penalties for knowing violations would be subject to penalty of $25,000 per day or imprisonment for one year or both. In addition, any violation of an effluent limitation, effluent standard, pretreatment standard, or standard of performance is subject to a minimum penalty of $2,500.

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If conviction is for a second knowing violation, the penalty could be increased to $50,000 per day of the violation or by imprisonment for 2 years or both. In addition, penalties would be added for knowing violation of the procedural requirements of the Act such as record-keeping, report filing, information availability or falsifying, tampering with, or rendering inaccurate monitoring devices.

The Committee believes that if the timetables established throughout the Act are to be met, the threat of sanction must be real, and enforcement provisions must be swift and direct. Abatement orders, penalty provisions, and rapid access to the Federal District Court should accomplish the objective of compliance.

Section 310—International Pollution Abatement

If the Secretary of State requests abatement of pollution from a U.S. source that endangers the health or welfare of persons in a foreign country, EPA must notify the State where the discharge originates. If the pollution is in sufficient quantity to warrant such action and if the foreign nation has given the U.S. similar rights over pollution originating in that nation, EPA shall call a hearing. The hearing board shall consider the allegation and make a recommendation. If the recommendation calls for abatement, EPA shall initiate abatement action if EPA finds that the evidence warrants it.

Section 10 of existing law provides for a method of abatement of water pollution involving a hearing or conference procedure. While this approach to enforcement against domestic polluters is replaced in this Act by sections 309 and 402, it is retained for water pollution of an international character. In addition to conforming changes, the only substantial modification of section 10 of existing law as it deals with international water pollution situations, is the requirement that effluent data involved in any enforcement action under this section be made public and not considered confidential as a trade secret.

Section 311—Oil and Hazardous Substance Liability

The portions of this section that deal with clean-up liability for oil discharges are taken from existing law. Modifications add liability for the clean-up of any hazardous material discharged onto the navigable waters.

EPA shall designate materials and quantities that are hazardous. To be judged hazardous, a pollutant must present an imminent and substantial danger to the public health or welfare, including fish, shellfish, and beaches.

The discharger of any hazardous substance that cannot be cleaned up is liable to a penalty of $5,000 for each barrel of material that is discharged. The discharger has the same defenses existing in present law to anyone discharging oil: an Act of God, act of war, negligence on the part of the U.S. Government, or an act of a third party.

Section 311 enacted as a part of the Water Quality Improvement Act which provides for the control of oil pollution has been modified

in three respects. First, the Federal Maritime Commission (which has been charged by the President with responsibility to regulate and enforce the financial responsibility requirements of this Section) is provided enforcement authority required to carry out effectively its functions with respect to vessels which violate the financial responsibility provisions.

Second, the Committee bill provides for the assessment of the penalty for discharging oil or hazardous substances in the case where the owner or operator acted "willfully or negligently". As contained in existing law the penalty applied to a "knowing" discharge and was only being sought when "actual knowledge" could be shown.

Third, the Committee determined, on the basis of reports authorized by and subsequently submitted pursuant to the Water Quality Improvement Act, that hazardous substances heretofore treated in a separate section should be subject to the same control mechanism applied to oil. Under present law major spills of hazardous substances which could cause significant environmental and economic damage are not subject to liability for the cost of clean-up of those spills. The Committee was concerned that many hazardous substances cannot be cleaned-up by standard methods because they immediately dissolve in the receiving waters.

These substances, the discharge of which may cause environmental disaster, could not be subject to any meaningful clean-up liability. A clean-up liability provision therefore would provide no incentive to carriers and handlers of these substances to exercise the great caution that such materials warrant.

The Committee notes that in the March, 1971 report entitled "Control of Hazardous Polluting Substances", the Administration made the following recommendation: "We have examined the issue of whether there should be financial limitations of liability for the costs of removal of hazardous polluting substances, and we have concluded that there should be no liability limitations imposed."

The Committee believes that the discharge of such substances should be subject to penalty even though clean up is not practicable. In this way, each carrier or handler evaluates the risk of discharge and determines whether or not the potentially penalty is worth the risk. Because the penalty to be imposed under this section should relate to the environmental hazard involved, the Committee determined that the Administrator should set the amount of penalty on the basis of the actual amounts of material released into the waste environment. The bill would establish a minimum fine of $50,000 and a limit per barrel fine of $5,000. The Administrator is expected by regulation to set the fine per barrel of discharge based on toxicity, degradability, and disposability of such substances.

Because no outside limit is proposed the potential penalty would be the amount of substance involved times the amount of penalty set by the Administrator.

Concern has been expressed as to the potential magnitude of a fine to which a carrier or handler of a hazardous substance might be exposed.

The Committee examined this concern and concluded that the penalty would be limited in two ways: First, the Administrator would establish per unit limits on the basis of the hazard posed by each of the sub-

stances designated. Second, the penalty would be strictly limited to those substances actually released into the water.

The Committee recognizes that a bulk carriage of a substance which has an extremely high per unit penalty will be exposed to an unacceptable level of liability. Faced with this fact, bulk carriage of extremely toxic materials in most cases will pose an unacceptable risk. Thus by determining not to haul, in bulk, such hazardous materials the carrier will avoid unacceptable economic risk and the public will not be confronted with unacceptable environmental risk (over which only the carrier has any control).

Section 312—Marine Sanitation Devices

This section closely follows a similar provision in existing law. New language frees from State regulation any boat owner who installs a federally certified treatment device prior to the effective date of regulations that require use of such devices.

This Section, enacted as part of the Water Quality Improvement Act of 1970, has only been changed in two instances to clarify Congressional intent.

Subsection (f) of Section 312 is revised to provide that any vessel which installs a marine sanitation device in compliance with any standards or regulations required by this Section prior to the effective date of such standard shall be protected from any State or local enforcement action or other requirement.

Subsection (f) is also modified to clarify the provision which allows a State to apply for a complete prohibition on discharges from vessels where protection and enhancement of the quality of specified waters requires such prohibition.

Under the 1970 Act the State was required to show that the specific discharge caused a specific violation of water quality standards. In other parts of this report the difficulty of demonstrating a direct relationship between a specific discharge and water quality is discussed. In light of this difficulty the Committee has attempted to clarify the intent of this provision.

Section 313—Federal Facilities Pollution Control

This section, similar to one in existing law, requires that Federal facilities meet the same effluent limitations as private sources of polluton, unless the Federal facility is specifically exempted by the President. The President cannot exempt any source from requirements of Sections 306 and 307.

This section would require every Federal agency with control over any activity or real property, to provide national leadership in the control of water pollution in such operations.

Evidence received in hearings disclosed many incidents of flagrant violations of air and water pollution requirements by Federal facilities and activities. Lack of Federal leadership has been detrimental to the water pollution control effort. The Federal Government cannot expect private industry to abate pollution if the Federal Government continues to pollute. This section requires that Federal facilities meet all control requirements as if they were private citizens.

The Committee recognizes, however, that it may be in the paramount interest of the United States that a plant or facility not achieve full water pollution control within the time required. Therefore, the bill would provide case by case exceptions, on the basis of determination by the President, for a period of no more than one year.

New one-year extensions could be granted on the basis of a subsequent determination by the President. The President would be required to report each January to the Congress on any such exception during the preceding year, together with a detailed explanation of the need to grant such exceptions.

No exception could be granted due to lack of appropriations, unless the Congress specifically rejected a request for funds that appeared as a line item in the Budget request.

Section 314—Clean Lakes

All States shall identify and classify their lakes according to eutrophic condition, and set up procedures to control lake pollution and restore these lakes. Seventy percent grants are authorized to assist States in carrying out this program, with $300,000,000 authorized over three fiscal years.

In many areas of the nation, fresh water lakes and reservoirs are seriously degraded by municipal-industrial pollutants, by agricultural runoff, and by accelerated sedimentation. These pollutants greatly accelerate the rate of eutrophication.

Lake Erie is an example of this process. There is not a State, however, in which the water quality of lakes is not seriously degraded.

Excessive eutrophication, accumulated sludge and other pollutants, reduced flow and severe water level fluctuations, and heavy sedimentation all are contributing to critical conditions which must be remedied promptly if the lakes are to recover and continue their natural function in our national life.

The Committee bill adopts the essence of legislation proposed by Senator Walter F. Mondale which requires each State to classify fresh water lakes according to water quality condition and to develop plans and methods for restoring those lakes. The plans are to be submitted to the Administrator for his approval.

Upon approval by the Administrator, such State will become eligible for Federal grants to pay 70 percent of the cost of carrying out the approved programs. A total of $300 million is authorized for these grants as follows: $50 million for fiscal year 1972, $100 million for fiscal year 1973, and $150 million for fiscal year 1974.

To complement the procedure set out, the bill authorizes the Administrator to develop methods, processes, and procedures to restore fresh water lakes. Only in this manner can the program be fully used. While the Committee recognizes that many such techniques will require development, many methods now available have considerable potential for cleaning and restoring water quality to lakes. In view of the urgent need in many areas of the Nation, these methods should be supported.

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TITLE IV—PERMITS AND LICENSES

SECTION 401—CERTIFICATION

This section, largely taken from present law, requires that any applicant for a Federal license or permit provide the licensing agency with a certification from the State in which the discharge occurs that any such discharge will comply with Sections 301 and 302.

This section is substantially section 21(b) of existing law (enacted as a part of the Water Quality Improvement Act of 1970) amended to assure consistency with the bill's changed emphasis from water quality standards to effluent limitations based on the elimination of any discharge of pollutants.

Subsection (a)(7) has contained a grandfather provision allowing facilities on which construction under a Federal license or permit began before April 3, 1970, three years before any certification would be required. This provision is amended in this bill to except permits under section 402 of this Act or section 13 of the Rivers and Harbors Act of 1899. Certification will be required for all such permits from the date of enactment on, regardless of the time construction of the facility began.

Existing law is further modified by section 401 of this bill to include a definition of certification. The certification provided by a State in connection with any Federal license or permit must set forth effluent limitations and monitoring requirements necessary to comply with the provisions of this Act or under State law and such a certification becomes an enforceable condition on the Federal license or permit.

In addition, the provision makes clear that any water quality requirements established under State law, more stringent than those requirements established under this Act, also shall through certification become conditions on any Federal license or permit. The purpose of the certification mechanism provided in this law is to assure that Federal licensing or permitting agencies cannot override State water quality requirements.

It should also be noted that the Committee continues the authority of the State or interstate agency to act to deny a permit and thereby prevent a Federal license or permit from issuing to a discharge source within such State or jurisdiction of the interstate agency. Should such an affirmative denial occur no license or permit could be issued by such Federal agencies as the Atomic Energy Commission, Federal Power Commission, or the Corps of Engineers unless the State action was overturned in the appropriate courts of jurisdiction.

SECTION 402—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

The Administrator may issue a permit for the discharge of pollutants into the navigable waters, or beyond, if the discharge meets applicable requirements of Sections 209, 301, 302, 306, 307, or 308. Any permit issued under Section 13 of the 1899 Refuse Act prior to June 30, 1972, shall be considered a permit pursuant to this section.

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Any State may create its own permit system, following Section 304 guidelines. The Administrator shall approve the State permit program and delegate authority to the State, unless the State program fails to have adequate authority to carry out several specified functions.

Any State receiving such a delegation of authority shall send a copy of all permit applications to the Administrator. The State may not issue a permit until the Administrator is satisfied that the conditions imposed meet the requirements of the Act. The Administrator may waive this review authority over specific classes or sizes of plants or after a 30-day period.

Section 402 provides statutory basis for the continuation of a Federal program to control, on a source by source basis the discharge of pollutants into the navigable waters.

In addition to redirecting the control program from ambient standards to direct effluent controls, the second most difficult policy and program issue which the Committee considered was the integration of the program under section 13 of the Refuse Act of 1899 initiated by the Administration pursuant to Executive Order in December of 1970.

When implemented and applied to pollution, the Refuse Act permit program established a direct relationship between the Federal Government and each industrial source of discharge into the navigable waters of the United States. This relationship existed completely independent of the Federal-State program established under the 1965 Act and created a duality of control requirements that placed all parties under a cloud of uncertainty. In addition, to the problem of intergovernmental relations, the Refuse Act authority has significant gaps (particularly its exemption of municipal waste treatment works) that render it seriously inadequate as a means of implementation of a water pollution control program.

Because of the complexity of the Refuse Act permit program and its relationship to Section 402 a short discussion of the factors involved in development of the permit program is relevant.

In 1899, the Congress enacted a statute which precisely prohibited the discharge of any "refuse" (subsequently defined by the Courts to include everything except sewage from municipalities) without a permit from the Secretary of the Army (the Corps of Engineers). This prohibition can be enforced with both civil and criminal sanctions. This authority was ignored until June 1, 1971.

The Corps of Engineers, pursuant to an Executive Order of the President, issued December 23, 1970 (E.O. 11574), proposed regulations (December 31, 1970, 35 F.R. 20005 and January 21, 1971, F.R. 983) to exercise authority contained in the 1899 statute relating to discharges into the navigable waters. The regulations were finally promulgated on April 7, 1971. Supplementary regulations have been promulgated by E.P.A. and several supporting administrative interagency agreements have been published.

Recent studies by the Administration reveal that there are at least 40,000 industrial sources of discharge into the navigable waters.

In part, the "discovery" of the Refuse Act is the result of the Subcommittee on Air and Water Pollution's initiative in the Water

Quality Improvement Act. Section 21(b) of that Act triggers the use of Federal permit authority (including the Refuse Act) as a means of implementing water requirements.

The regulations of the Corps and the Administrator required all dischargers into the navigable waters to apply for Refuse Act permits by July 1, 1971.

The period of implementation of the Refuse Act permit program coincides with the evolution of the bill reported by the Committee. Consequently, continuous consultation was undertaken with representatives of State governments, and the Administration in an effort to weave the permit program into this legislation. The Refuse Act as now restated in the Committee bill establishes that the discharge of pollutants into the navigable waters of the United States is prohibited. The Federal Government as the custodian of the navigable waters has the responsibility to control affirmatively any discharges of pollutants into the navigable waters and, under the Committee bill, seek to achieve elimination of the discharge of pollutants.

It is expected that the States will play a major role in the administration of this program.

The Committee believes that, after a transition period during which the State program and capability will be upgraded, the program should be administered by those States with programs which meet the requirements of this Act.

Therefore, the bill provides that after a State submits a program which meets the criteria established by the Administrator pursuant to regulations, the Administrator shall suspend his activity in such State under the Federal permit program. The Administrator would periodically assess the performance of the State program and have the authority to withdraw this delegation upon finding that the State is not carrying out its program properly.

Although the Administrator is given the authority to review any permit before it is issued by a State, the Committee expects that, after delegation, the Administrator will withhold his review of proposed permits which are not of major significance. If the Administrator finds that a State program is inadequate to mitigate his involvement he should not approve a State program.

The Administrator has authority to establish, by regulation, those classes and categories of point sources for which he will not exercise permit-by-permit review in any State that has received delegated authority. Certain classes and categories involving individual dischargers (such as small municipalities) may be more appropriately subject to State review. If the Administrator approves a State program he should waive his right to review such permits in the interest of efficient program management.

Furthermore, the Committee believes that there are some States which presently possess broad expertise in evaluating certain classes or categories of discharge sources. The Administrator is therefore given flexibility to indicate at the time of approval of a State program that any permit issued by a State for discharge sources in a designated category would not be subject to his residual review authority. For the remaining classes of discharge source, the Administrator retains authority to exercise final review and approval over the issuance of a

permit by a State. The bill, in an effort to insure expeditious implementation of issuance of permit and remove any uncertainty, requires that the Administrator must notify the State within thirty days of the receipt of any application for permit if he desires to waive authority to review and approve. If the Administrator does not so notify within the time required, he retains his authority and the State cannot issue the permit without agreement from the Administrator. Should the Administrator choose not to waive involvement in the development of the conditions of any permit, the Committee urges that he become involved in the process at the earliest possible stage. Such early involvement should minimize the duplication of time and effort by all parties, should facilitate determining the conditions of any permit, and should assure that a permit application will receive prompt consideration.

The bill would not allow the Administrator to waive his review and approval responsibility under the permit section for those classes and categories of point sources which will discharge into the territorial seas, the waters of the contiguous zone and the waters of the ocean. In such circumstances the Administrator (in addition to requirements under Title III) is required to apply guidelines established by regulation for determining the effect on the territorial sea, the waters of the contiguous zone and the waters of the ocean under section 403. Because the Administrator has the expertise with which to make judgments on the effect of the discharge of pollutants into the territorial seas or the contiguous zone and the oceans, consequently every permit issued by a State with an approved program under section 402 would be subject to review and approval by the Administrator in order that all of the factors relating to such discharge and its effect are thoroughly analyzed and the proper control exercised.

An essential element in any control program involving the nation's waters is public participation. The public must have a genuine opportunity to speak on the issue of protection of its waters. The Committee has therefore established requirements to provide opportunity for public hearing by the Federal Government, or if State participation is approved by the Administrator, the State, and other provisions to make available to the public all relevant information surrounding a discharge source and the control requirements placed on it. This includes the deposit of any permit, and the conditions thereto, in a place of ready public access. The scrutiny of the public and the exercise of authority under this section is extremely important in insuring expeditious implementation of the authority and a high level of performance by all levels of government and discharge sources.

The integration of the Refuse Act permit program into the Federal Water Pollution Control Act has been difficult but there can be no doubt that the most effective control mechanism for point sources of discharge is one which will provide for the establishment of conditions of effluent control for each source of discharge. A permit or equivalent program, properly implemented and fully utilizing the resources of the State and Federal Government should provide for the most expeditious water pollution elimination program.

The information on the technology of control developed under section 304 should facilitate the administration of this system.

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One of the most difficult problems of enforcement is the sanction or remedy to be applied in the event there is a violation of an effluent requirement by a municipal treatment works. Through the vehicle of a permit a mechanism is provided to reach through the municipality or other public body to regulate the actual course of such violations; the respective contributors to the municipal waste load. The Committee has, therefore, authorized the State or, if appropriate, the Administrator to proceed directly against the users of the treatment works, and to restrict new additions to such treatment works until any violation has been abated.

Several bills pending before the Committee provided authority to establish Federally approved standards for groundwaters which permeate rock, soil, and other subsurface formations. Because the jurisdiction regarding groundwaters is so complex and varied from State to State, the Committee did not adopt this recommendation.

The Committee recognizes the essential link between ground and surface waters and the artificial nature of any distinction. Thus the Committee bill requires in section 402 that each State include in its program for approval under section 402 affirmative controls over the injection or placement in wells or any pollutants that may affect ground water. This is designed to protect ground waters and eliminate the use of deep well disposal as an uncontrolled alternative to toxic and pollution control.

The importance of groundwater in the hydrological cycle cannot be underestimated. Although only about 21.5 percent of our domestic, industrial agricultural supply comes directly from wells, it must be remembered that rivers, streams and lakes themselves are largely supplied with water from the ground—not surface runoff.

Present water pollution control programs concentrate on the control of pollutants placed in surface waters, on the assumption that to control these inputs will assure desirable qualities in the ground waters. Unfortunately, this is not always the case. Groundwaters, due to their much larger volume than surface waters, their slow natural rates of circulation, and their almost complete absence of living organisms can accept more pollutants with less obvious, direct degradation than can well-defined lakes and rivers with their tell-tale biologic indicators of chemical change. However, due to the lack of organisms and slow circulation, polluted groundwaters generally have no "self-cleaning" mechanisms, and could remain polluted for centuries.

Groundwater pollution is not as serious a national problem at present as is surface water pollution, but groundwater availability and quality is deteriorating. In some locales, serious hazard exists. Deep-well disposal raises a possibility of irrevocable damage to public aquifers and slow dissemination of pollutants into potential water supplies. Deep water wells are not now widely used for public water supplies except in water-short areas like west Texas and Nebraska where shallower groundwaters have been virtually exhausted since the end of the second world war. However, deep disposal wells are becoming more prevalent throughout the nation, while deep wells are predicted to supply increasing percentages of public water in the arid west and southwest in the next two decades. [p. 73]

SECTION 403—OCEAN DISCHARGE CRITERIA

This section sets standards under which a permit can be issued for a discharge of pollutants into the territorial sea, the contiguous zone, or the ocean.

The Administrator shall establish guidelines on the effect of disposal of pollutants on human health and welfare, on marine life, and on recreational and economic values, as well as guidelines for determining the persistence of the pollutant and other possible locations for its disposal.

The Committee on Public Works has exclusive jurisdiction over legislation affecting the discharge of pollutants into the navigable waters of the United States. This includes territorial seas of the United States, which, under present law, is a band of the oceans extending in most States three miles from the shore. In addition, the Committee has exclusive jurisdiction over the discharge of pollutants from any facility located within States through a pipeline into any part of the oceans including the contiguous zone or beyond. The Committee has established a regulatory framework to control the discharge of pollutants into the navigable waters and from pipelines beyond the territorial seas in Sections 301, 402 and 403. The framework is in concert with the ultimate objective of the Act to eliminate the discharge of pollutants.

The Committee shares equally jurisdiction with the Senate Commerce Committee over the disposal of pollutants from vessels beyond the territorial seas. Both the Committee on Public Works and the Commerce Committee have had before them several bills which would create a regulatory scheme to control the discharge of pollutants from vessels beyond three miles. Both Committees have held hearings on the subject of ocean degradation. There can be no doubt that there is presently serious deficiency that exists in present law that must be repaired if this Nation is to lead in the protecting the quality of the ocean.

In order to expedite the legislative process, the Committee on Public Works and the Committee on Commerce have jointly agreed on a bill to provide the regulatory framework to control the dumping of pollutants from vessels into the waters beyond the territorial seas. It has been further agreed that this provision will be contained in a bill to be reported from the Commerce Committee with the concurrence of the Committee on Public Works as to those portions on which there is a joint agreement. The basic outline of the bill would provide the Administrator of the Environmental Protection Agency with authority to control all dumping of pollutants from vessels beyond three miles to twelve miles to control discharge of pollutants from vessels beyond 12 miles wherever such pollutants are generated in the territorial jurisdiction of the United States.

Coupled with the provisions in the bill reported by the Committee on Public Works, the bill to be reported from the Commerce Committee should enable the United States to have complete and integrated regulation of the disposal of pollutants into all waters and over all sources of pollutants subject to its jurisdiction. It is expected that the leadership so exercised by the United States will be the model for

other nations and should in a short time produce the framework for international agreement over the protection of the oceans.

The disposal of pollutants into ocean waters is regulated under this bill when it involves a discharge from any outfall beyond the shoreline of the United States or any discharge into the territorial sea from a vessel. Under a bill to be jointly reported by the Committee on Public Works and the Committee on Commerce, the discharge of pollutants from vessels into the waters of the contiguous zone and the oceans would be regulated.

Under section 403, no discharge into ocean waters would be allowed, except in compliance with the criteria established under this section. The Federal role in establishing conditions on any permit for discharge into ocean waters could not be waived. In subparagraph (c)(1)(A) of the section, the contamination of marine organisms or waters which prevents the harvesting of sea food that is safe to eat, the use of oceans for recreation, or its use as drinking water after desalination, among other things, would be recognized as detrimental to human health or welfare.

The ocean's waters are in constant circulation, so that any discharge beyond any arbitrary limit, such as 3 or 12 miles, may reach the beaches of the United States. Thus, in considering discharge effects, the Administrator must consider the effect that the discharge may have elsewhere on the integrity of marine systems.

In subparagraph (c)(1)(G) the Committee wishes to emphasize the need to preserve the ocean in as natural a state as possible at least until we understand its tolerances and characteristics, so that discharges permitted today will not irreversibly modify the oceans for future uses. Any discharge which would so alter the ocean's character that scientific study of that feature of the ocean is forever destroyed would seem to the Committee inconsistent with the objective of maintaining the integrity of the Nation's coastal waters, which constantly circulate with waters in the open ocean. For example, discharge of a harmful pollutant at 15 miles may migrate into the coastal zone region, killing large numbers of one or more species, altering the character of the marine ecosystem characteristic of the coastal zone, and preventing study of the zone's natural features before alteration by man's discharges.

TITLE V—GENERAL PROVISIONS

SECTION 501—ADMINISTRATION

This section is similar to section 22 of existing law. A new subsection allows EPA to dispatch employees to assist State pollution agencies in their work.

SECTION 502—GENERAL DEFINITIONS

The section defines pollutant, pollution, effluent limitation, discharge, toxic pollutant, point source, biological monitoring, and several other words and phrases as they are used in this Act.

The bill would amend the definition of a State water pollution control agency from that contained in existing law to reflect the changes

that have occurred since the definition was first included in the law. Originally the pollution control agencies were coincident with public health officers of the States, and therefore such officers generally administered water pollution control activities. The bill amends the definition of State water pollution control agency to mean the State agency designated by the Governor with responsibility for enforcing State water pollution control laws.

The definition of interstate agency is refined to make it clear that only those interstate agencies approved by Congress or those with sufficient power to implement the requirements of the Act as determined by the Administrator are functionally qualified to participate in the provisions of the Act.

The term State, for the purpose of the Act, includes the fifty States of the United States as well as several other jurisdictions specified. In addition the term State includes those agencies or instrumentalities of the United States with jurisdiction over river basins which are created by the United States with jurisdiction over river basins if the agency was created by or pursuant to an Act of Congress and has been designated either by the Governors or by the statutes of the participating States as having jurisdiction to implement the Act in the river basin.

The definition of municipalities is clarified to make clear that public bodies eligible for grants under this Act includes associations formed under State law for the purpose of dealing with water problems, whether or not they are given broad powers of general government, as well as operating agencies established and approved under section 209.

The term person, for purpose of the Act, means all entities which are capable of suing or being sued.

For the first time the Committee would add to the law a definition of the term pollutant. In order to trigger the control requirements over addition of materials to the navigable water, waters of the contiguous zone and the ocean, it is necessary to define such materials so that litigable issues are avoided over the question of whether the addition of a particular material is subject to control requirements. The Committee has extracted from the Refuse Act the basic formula and added municipal discharges to it, so that before any material can be added to the navigable waters authorization must first be granted by the Administrator, or State in the case of an approved State program, under Section 402. The Committee has made two specific exceptions from the term pollutant; sewage from vessels, as that term is defined and controlled through the provisions of Section 312, and water, gas, or other materials associated with the secondary recovery of oil.

The Committee has added a definition of pollution to further refine the concept of water quality measured by the natural chemical, physical and biological integrity. Maintenance of such integrity requires that any changes in the environment resulting in a physical, chemical or biological change in a pristine water body be of a temporary nature, such that by natural processes, within a few hours, days or weeks, the aquatic ecosystem will return to a state functionally identical to the original.

In those water bodies which are not pristine, it should be the national policy to take those steps which will result in change towards that pristine state in which the physical, chemical and biological integrity of the water body can be said to exist. Striving towards,

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and maintaining the pristine state is an objective which minimizes the burden to man in maintaining a healthy environment, and which will provide for a stable biosphere that is essential to the well-being of human society.

The control strategy of the Act extends to navigable waters. The definition of this term means the navigable waters of the United States, portions thereof, tributaries thereof, and includes the territorial seas and the Great Lakes. Through a narrow interpretation of the definition of interstate waters the implementation 1965 Act was severely limited. Water moves in hydrologic cycles and it is essential that discharge of pollutants be controlled at the source. Therefore, reference to the control requirements must be made to the navigable waters, portions thereof, and their tributaries.

The Committee has added definitions of the terms territorial seas, contiguous zone, and ocean to describe clearly the jurisdictional limits of the Act, and provide a basis for its relationship to other laws of the United States as well as to international law.

A definition of effluent limitations has been included so that control requirements are not met by narrative statements of obligation, but rather are specific requirements of specificity as to the quantities, rates, and concentration of physical, chemical, biological and other constituents discharged from point sources. It is also made clear that the term effluent limitation includes schedules and time tables of compliance.

The Committee has added a definition of schedules and time-tables of compliance so that it is clear that enforcement of effluent limitations is not withheld until the final date required for achievement.

The Committee has also added a definition of the term discharge to indicate the scope of the control requirements under the Act. Any pollutant added to the navigable waters from any point source or the addition of any pollutant to the contiguous zone or the water of the ocean by outfall or other pipeline is included within the control requirements of Title III or the addition of any pollutant to a publicly owned treatment works by any industrial user.

A definition of toxic substance is provided to assist the Administrator in implementing his authority under section 307 to regulate toxic discharges. The definition provides a benchmark for evaluating those pollutants which in certain concentrations would have a particularly adverse impact on humans as well as other forms of life. It is necessary to evaluate the effect of all forms of such pollutants and consider their persistence, degradation, or interaction with other materials, once in the receiving water.

Disease-causing agents are intended to refer to all pathogens, including viruses, which may produce disease symptoms in any organisms. In addition, any pollutant or agent which lowers an organism's resistance to serious disease should be considered a toxic pollutant.

The following substances were mentioned in relation to potential toxic effects by the President's Council on Environmental Quality (April, 1971) in a report entitled *Toxic Substances:* lead, cadmium, mercury, vanacium, arsenic, molybdenum, antimony, nickel, barium, beryllium, copper, selenium, zinc, nitrilotriacetic acid (NTA), orthonitrochlorobenzene (ONCB), polychlorinated biphenyls (PCB's), dichlordiphenyl-trichloroethane (DDT). The Committee expects the

Administrator to give first consideration to these pollutants in the exercise of his authority under Section 307.

Such substances as heavy metals should be controlled on an absolute rather than on a regional waste management basis. The following criteria would affect such classification:

—the presence of pathogenic organisms, including viruses;
—the seriousness and irreversibility of any effects on man or the environment that might occur;
—the likelihood or possibility that such effects might occur;
—the possibility for incorporation into biological organisms and. man in concentrations which latest scientific knowledge suggests will produce effects on man and organisms;
—the nondegradable or persistent nature of the substance;
—the availability of data on similar substances or compounds; and
—margins of safety to reflect the lack of data on potential toxicity where there is no experience under conditions of human or environmental exposure.

In order to further clarify the scope of the regulatory procedures in the Act the Committee has added a definition of point source to distinguish between control requirements where there are specific confined conveyances, such as pipes, and control requirements which are imposed to control runoff. The contro lof pollutants from runoff is applied pursuant to section 209 and the authority resides in the State or other local agency.

Section 503—Water Pollution Control Advisory Board

This section is section 9 of existing law, conformed with the remainder of the bill, and modified to allow $100 per diem for Board members while attending conferences or meetings of the Board.

The Committee expects that the recommendations of the Board shall be included in the annual report required under Section 515 of the Act.

Section 504—Emergency Powers

If a pollution source presents an imminent or substantial endangerment to the health of persons, EPA shall issue an immediate abatement order. If a pollution source could present a substantial economic injury to persons because of their inability to market shellfish, EPA shall initiate a civil suit for relief.

The bill would grant new authority to the Administrator to take remedial action in case of a water pollution episode.

This emergency authority provides for immediate, effective action whenever the discharge of water pollutants reach levels of concentration that present an imminent or substantial endangerment to the health or welfare of persons. In addition the bill provides emergency abatement authority to protect shellfish and shellfish products.

The bill recognizes the importance of contingency planning, and would require such contingency planning as a part of the water pollution control program of each State.

When the prediction can reasonably be made that such elevated levels could be reached even for a short period of time—that is that they are imminent—an emergency action plan should be implemented to reduce or terminate the discharge of pollutants and prevent the occurrence of substantial endangerment.

The Committee expects the Administrator to continue to refine emergency procedures under section 504 of this bill and to assist the States and municipalities in the development and execution of such procedures.

SECTION 505—CITIZEN SUITS

Anyone may initiate a civil suit against any person who is alleged to be in violation of an effluent limitation or a Federal or State abatement order, or against the Administrator for failure to perform a non-discretionary act.

No action on a suit may begin for 60 days following notification. If EPA or the State begins a civil or criminal action on its own against the alleged violator, no court action may take place on the citizen's suit. Litigation costs may be awarded to any party when the court determines such an award is appropriate.

Without regard to any time limitation, a Governor may start action against the Administrator for an alleged failure to abate a pollution violation in another State that adversely effects the Governor's State.

The Committee has established a provision in the bill that would provide citizen participation in the enforcement of control requirements and regulations established under this Act modeled on the provision enacted in the Clean Air Amendments of 1970. As in that Act the provision in this bill is carefully restricted to actions where violations of standards and regulations or a failure on the part of officials to act are alleged. One modification would allow the Courts to impose civil penalties provided as a result of actions brought by citizens. It should be noted that any penalties imposed would be deposited as miscellaneous receipts and not be recovered by the complainant. In addition the bill specifically provides that a Governor may utilize the authority granted, without reference to time limitations, to seek abatement of pollution which originates in another State and affects his State. Also, since a municipality may not be able to comply with a Court order because of limitations resulting from State law the bill would provide that the State shall be joined as a party.

Section 505 would not substitute a "common law" or court-developed definition of water quality. An alleged violation of an effluent control limitation or standard, would not require reanalysis of technological in other considerations at the enforcement stage. These matters will have been settled in the administrative procedure leading to the establishment of such effluent control provision. Therefore, an objective evidentiary standard will have to be met by any citizen who brings an action under this section.

In order to further encourage and provide for agency enforcement, the Committee has added a requirement that prior to filing a petition with the court, a citizen or group of citizens would first have to serve notice of intent to file such action on the Federal and State water

pollution control agency and the alleged polluter. Each citizen or group would have to include facts in such notice in accordance with regulations prescribed by the Administrator. The Administrator should prescribe such regulations as soon as possible after enactment, and such regulations should reflect simplicity, clarity, and standardized form. The regulations should not require notice that places impossible or unnecessary burdens on citizens but rather should be confined to requiring information necessary to give a clear indication of the citizens' intent. These regulations might require information regarding the identity and location of alleged pollutor, a brief description of the activity alleged to be in violation, and the provision of law alleged to be violated.

The Committee has provided a period of time after notice before a citizen may file an action against an alleged violator. The time between notice and filing of the action should give the administrative enforcement office an opportunity to act on the alleged violation.

It should be emphasized that if the agency had not initiated abatement proceedings following notice or if the citizen believed efforts initiated by the agency to be inadequate, the citizen might choose to file the action. In such case, the courts would be expected to consider the petition against the background of the agency action and could determine that such action would be adequate to justify suspension, dismissal, or consolidation of the citizen petition. On the other hand, if the court viewed the agency action as inadequate, it would have jurisdiction to consider the citizen action notwithstanding any pending agency action.

The Committee emphasizes that if the alleged violation is a failure to comply with an administrative enforcement order, a violation of a standard of performance, or a prohibition, or effluent standard or limitation established under the act, there would be no waiting period following notice. It is the Committee's intent that enforcement of these control provisions be immediate, that citizens should be unconstrained to bring these actions, and that the courts should not hesitate to consider them.

Section 505 would provide that a citizen enforcement action might be brought against an individual or a government agency. As recognized under section 313 of the bill, Federal facilities generate considerable water pollution. Since some Federal agencies such as the Department of Defense have failed in abating pollution and in requesting appropriations to develop control measures, it is important to provide that citizens can seek, through the courts, to expedite the government performance specifically directed under section 313.

The standards for which enforcement would be sought either under administrative enforcement or through citizen enforcement procedures are the same. Therefore the participation of citizens in the courts seeking enforcement of water pollution control requirements should not result in inconsistent policy. Whether abatement is sought by an agency or by a citizen, there should be a considerable record available to the courts in any enforcement proceeding resulting from the Federal and State administrative standard-setting procedures. Consequently, the factual basis for enforcement of requirements would be available at the time enforcement is sought, and the issue before the courts would be a factual one of whether there had been compliance.

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The information and other disclosure obligations required throughout the bill are important to the operation of this provision. The Administrator would have a special duty to make meaningful information on discharging sources available to the public on a timely basis.

The section is drawn to avoid problems raised by class action provisions of the Federal rules of civil procedure, specifically by Rule 23. Section 505 does not authorize a "class action." Instead, it would authorize a private action by any citizen or citizens acting on their own behalf. Questions with respect to traditional "class" actions often involve: (1) identifying a group of people whose interests have been damaged; (2) identifying the amount of total damage to determine jurisdiction qualification; and (3) allocating any damages recovered. None of these points is appropriate in citizen suits seeking abatement of violations of water pollution control requirements. It should be noted, however, that the section would specifically preserve any rights or remedies under any other law. Thus, if damages could be shown, other remedies would remain available. Compliance with requirements under this Act would not be a defense to a common law action for pollution damages.

Concern was expressed that some lawyers would use section 505 to bring frivolous and harassing actions. The Committee has added a key element in providing that the courts may award costs of litigation, including reasonable attorney and expert witness fees, whenever the court determines that such action is in the public interest. The court could thus award costs of litigation to defendants where the litigation was obviously frivolous or harassing. This should have the effect of discouraging abuse of this provision, while at the same time encouraging the quality of the actions that will be brought.

The Courts should recognize that in bringing legitimate actions under this section citizens would be performing a public service and in such instances, the courts should award costs of litigation to such party. This should extend to plaintiffs in actions which result in successful abatement but do not reach a verdict. For instance, if as a result of a citizen proceeding and before a verdict is issued, a defendant abated a violation, the court may award litigation expenses borne by the plaintiffs in prosecuting such actions.

Enforcement of pollution regulations is not a technical matter beyond the competence of the courts. The citizen suit provision is consistent with principles underlying the Federal Water Pollution Control Act, that is the development of clear and identifiable requirements. Such requirements should provide manageable and precise benchmarks for enforcement.

As pointed out, the Committee bill would provide in the citizen suit provision that actions will lie against the Administrator for failure exercise his duties under the Act, including his enforcement duties. Authority granted to citizens to bring enforcement actions under this section is limited to effluent standards or limitations established administratively under the Act. Such standards or limitation are defined in subsection (f) of Section 505 to include the enforcement of an unlawful discharge under section 301(a), effective after July 1, 1973. By limiting the effective date of citizens suits for violation of this provision the Committee believes sufficient time is available for the State and Federal governments to develop fully, and execute the authority contained in section 402.

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In addition to violations of section 301(a) citizens are granted authority to bring enforcement actions for violations of schedules or timetables of compliance and effluent limitations under section 301, standards of performance under section 306, prohibitions or effluent standards and pretreatment standards under section 307, provisions of certification under section 401, and any condition of any permit issued under section 402.

SECTION 506—APPEARANCE

EPA shall appoint its own attorney to represent EPA in any court action, if the Attorney General does not, within a reasonable time, notify the Administrator that the Justice Department will represent EPA.

The Committee recognizes that this legislation would put greatly increased burdens on the administering agency. Constant legal assistance would be required in legislative interpretation, administrative procedure, review of implementation plans, information acquisition, and enforcement. The Administrator would need a staff of supporting attorneys. Good administration dictates that such assistance be immediately available to the Administrator.

Therefore, the bill would authorize the Administrator to appoint attorneys to appear and to represent him in actions instituted under the Federal Water Polluton Control Act, if, after initial request to the Attorney General for litigation services, the Attorney General notified the Administrator he would be unable to provide quickly such services. The Committee believes this is necessary for three reasons. First, the timetables imposed by the bill would require that full time legal assistance be available to assure compliance. Second, new enforcement procedures would require the development of competence and expertise if the Act were to be administered and enforced fairly and expeditiously. Finally, failure to comply with enforcement within the time required would necessitate immediate action in Federal District Courts to seek compliance with such order.

The purpose of the bill is to establish clear and enforceable requirements upon those activities which affect water quality. Monitoring requirements and information acquisition should reveal violations of control requirements with a minimum of factual complexity. Once the Administrator has, under the procedures established under the bill, determined a violation, the government should immediately proceed to abatement. Once this determination is made there should be no further discretionary decision making by government officials.

SECTION 507—EMPLOYEE PROTECTION

This section offers protection to employees who believe they have been fired or discriminated against as a result of the fact that they have testified or brought suit under this Act. The employee may apply to the Secretary of Labor for review of his case. The Secretary of Labor can issue an order for the employee to be rehired, or otherwise compensated, if the employee's case is justified. The section does not apply to an employee who acts outside the direction of his employer.

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Section 507 of the bill is patterned after the National Labor Management Act and a similar provision in Public Law 91–173 relating to the health and safety of the Nation's coal miners. Under this section employees and union officials could help assure that employers do not contribute to the degradation of our environment.

Any worker who is called upon to testify or who gives information with respect to an alleged violation of a pollution control law by his employer or who files or institutes any proceeding to enforce a pollution control law against an employer may be subject to discrimination.

The section would prohibit any firing or discrimination and would provide an administrative procedure under which the employee or his representative could seek redress for any violation of this prohibition. The Secretary of Labor would investigate such charges and issue findings and a decision which would be subject to judicial review. If the Secretary should find a violation, he would issue orders to abate it, including, where appropriate, the rehiring of the employee to his former position with back pay. Also, the person committing the violation could be assessed the costs incurred by the employee to obtain redress.

This provision would safeguard the rights of employees, but it should not encourage employees to frivolously allege violations since the employee would have to pay the costs of the proceedings unless the violation is proved.

In order to avoid abuse of the protection afforded under this Section the Committee has added a provision which would deny its applicability to any Employee who, without direction from his employer, deliberately violates or wilfully contributed to a violation of any standard, requirement or regulation under the Act.

Section 508—Federal Procurement

No Federal agency may enter into any contract involving any facility that has been convicted under Section 309. The prohibition continues until EPA certifies that the violation that led to the conviction no longer exists.

The President may exempt any contract if the exemption is in the paramount interest of the United States. The President is required to submit an annual report on implementing this section.

The Committee, as in the Clean Air Amendments of 1970, has reported a bill that would provide that the Federal Government will not patronize or subsidize polluters through its procurement practices and policies.

Section 508 would make any person or corporation who fails to comply with a court order issued under this Act or who is convicted of a knowing violation of any requirement under the Act becomes ineligible for a Federal contract for any work to be done at the polluting facility. This ineligibility would continue until the Administrator certifies that the facility is in compliance with the court order or the provisions of the Act.

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This section would be limited, whenever feasible and reasonable, to contracts affecting only the facility not in compliance, rather than an entire corporate entity or operating division.

There might be cases where a plant could not participate in a Federal contract due to a violation but another plant owned by the same company might bid and transfer other work to the first plant. This type of action would circumvent the intent of this provision. In this case, the company's second facility should also be barred from bidding until the first plant returns to compliance.

There would also be instances where a second plant within a corporation was seeking a contract unrelated to the violation at the first plant. In such a case, the unrelated facility should be permitted to bid and receive Federal contracts.

The bill also mandates that the President publish new Federal contract guidelines that will enable the Federal Government to exercise its procurement power to assure compliance with the Federal Water Pollution Control Act and to suspend or revoke a contract once the contracting party is found in non-compliance with the requirements of the Act.

The effectiveness of this section would depend on fast, accurate dissemination of information. All Federal agencies would have to be rapidly apprised of any abatement order or conviction which would bar a facility from eligibility for Federal contracts. The Administrator would also have to act expeditiously to certify that a facility had achieved compliance, and notify all Federal agencies of that fact. Delays in reporting such information, leading to inaccurate public disclosures, would quickly render this section unworkable.

SECTION 509. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

EPA may issue subpoenas. Trade secrets are protected from public reporting. Fees are granted to witnesses. Any suit against a Federal standard must be filed in the U.S. Court of Appeals in Washington, D.C. Suits for review of a Section 402 permit must be filed in the Court of Appeals for the appropriate circuit. Such suits must be filed within thirty days of promulgation or approval.

Section 509 of the bill includes provisions relating to subpoenas, specifies the courts in which certain appeals may be prosecuted, and the circumstances under which additional evidence may be ordered by the courts to be taken by the Administrator.

As noted in the discussion of section 305, the Administrator is required to furnish information to the Congress and the public on control technology and the status of progress toward eliminating the discharge of pollutants. It should be noted that the authority to subpoena records and other information as contained in section 509 is available to support the acquisition by the Administrator of information necessary to fully apprise Congress of the official status of the control technology and success of the program so that Congress will be in a position to assess accurately water pollution control needs and make any appropriate adjustments in policy on legislation.

One of the uncertainties in the existing Federal Water Pollution Control Act is the availability or opportunity for judicial review of administratively developed and promulgated requirements, standards

and regulations. Moreover, the effect on the general program of a review itself is not clear.

Any person has standing in court to challenge administratively developed standards, rules and regulations under the Act. The courts are increasingly adapting this test to what administrative actions are reviewable. In several recent cases [*Environmental Defense Fund, Inc.* v. *Hardin* (C.A. No. 23,813, May 28, 1970); *Barlow* v. *Collins* (397 U.S. 159, 167 (1970)); *Abbott Laboratories* v. *Gardiner* (387 U.S. 136, 140–41 (1967))] the Courts have held that even in matters committed by statute to administrative discretion, preclusion of judicial review "is not lightly to be inferred . . . it requires a showing of clear evidence of legislative intent." (*E.D.F.* v. *Hardin*, supra, p. 7). The Courts have granted this review to those being regulated and to those who seek "to protect the public interest in the proper administration of a regulatory system enacted for their benefit." (*E.D.F.* v. *Hardin* supra, p. 6). Since precluding review does not appear to be warranted or desirable, the bill would specifically provide for such review within controlled time periods. Of course, the person regulated would not be precluded from seeking such review at the time of enforcement insofar as the subject matter applies to him alone.

Because many of these administrative actions are national in scope and require even and consistent national application, including the approval of State programs under Section 402. This section specifies that any review of such actions shall be in the United States Court of Appeals for the District of Columbia. For review of permits issued under section 402 and other actions which run only to one region, the section places jurisdiction in the U.S. Court of Appeals for the Circuit in which the affected State or region, or portion thereof, is located.

In order to maintain the integrity of the time sequences provided throughout the Act, the section would provide that any review sought must be filed within 30 days of the date of the challenged promulgation or other action.

The Committee recognizes that it would not be in the public interest to measure for all time the adequacy of a promulgation of any standard requirement or regulation by the information available at the time of such promulgation. In the area of protection of public health and environmental quality, it is clear that new information will be developed and that such information may dictate a revision or modification of any promulgated standard, requirement, or regulation established under the act. The judicial review section, therefore, provides that any person may challenge any requirement after the date of promulgation whenever it is alleged that significant new information has become available.

SECTION 510—STATE AUTHORITY

This section states that the States retain the right to set more restrictive standards than those imposed by this Act.

This section of the Act retains the right of any State or locality to adopt or enforce effluent standards or limitations, or any other requirement, respecting control or abatement of a water pollution more stringent than those required or established under this Act.

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SECTION 511—OTHER AFFECTED AUTHORITY

This section requires that the discharge of pollutants under 1888 and 1910 Acts will be regulated according to this Act.

Section 511 preserves the authority of other Federal laws which are consistent with this Act. Specifically, the authority of the Secretary of the Army to maintain navigation and that under the Rivers and Harbors Act of 1899 is preserved. However, in the case of dredge and fill activities permitted under section 10 of the Rivers and Harbors Act of 1899, a certification under section 401 or permit under section 402 would be conclusive as to the effect on water quality. Also this section provides that this Act will not affect or impair the provisions of any treaty of the United States.

Another provision of this section states that the consultation and coordination requirements of the Fish and Wildlife Coordination Act shall apply only to the provisions of section 306, the publication of information under section 304 and the establishment of guidelines under section 403 but not to the imposition of any specific effluent limitation on a particular source. In addition, this section provides that discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (dealing with discharges into Lake Michigan) and the Supervisory Harbors Act of 1888 (dealing with discharges into the Baltimore and New York Harbors, and environs), will be regulated under the Federal Water Pollution Control Act. Therefore, the 1910 and 1888 Acts would apply only to discharges affecting navigation or anchorage.

SECTION 512—SEPARABILITY

This section of the bill restates section 25 of existing law, with minor language changes.

SECTION 513—LABOR STANDARDS

This section of the bill is section 8(g) of existing law, with minor language changes.

SECTION 514—EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

A nine-member scientific committee is established to hold public hearings and transmit to the Administrator information on any proposed Section 304(b) regulations or standards under Sections 306 and 307.

In order to ensure that effluent limitations and standards criteria issued under this bill are based on the maximum amount of scientific and technical information, an Advisory Committee of scientifically and competent independent individuals would participate in the development of information based on which the Administrator would make regulatory decisions.

The Advisory Committee authorized by this section would consist of nine members appointed by the Administrator of the Environmental Protection Agency serving on a full time basis for a term of four

years. They would be selected from the scientific community on the basis of their capabilities to provide scientific and technical information required for the standards and criteria developed under this Act. Strict conflict-of-interests provisions would apply to the members of this committee.

Six months before the publication of any guidelines for effluent limitations, proposed standards of performance for new sources, or proposed toxic effluent standards, the Administrator would notify the Advisory Committeee of his intent to propose regulations in these areas. Within four months of such notice, the Advisory Committee would provide the Administrator with all the scientific and technical information related to the subject matter which it has developed. To prepare such information, the Advisory Committee may hold a public hearing.

The information which the Advisory Committee provides to the Administrator would constitute a part of the administrative record of the Administrator's rule-making in these areas. In developing this information the Advisory Committee should utilize the services of other Federal agencies including the United States Geological Survey and the National Environmental Laboratories proposed in S. 1113 if they are established.

This section provides that the Advisory Committee would cease to exist within one year after the establishment of the National Environmental Laboratories.

Section 515—Reports to Congress

Ninety days after the start of each session of Congress, EPA shall submit a report on measures taken to implement this Act. An annual report to Congress by EPA is also required on detailed cost estimates for carrying out this Act.

Subsection (b) of section 515 is substantially section 26 from existing law. Subsection (a) adds a requirement for annual reports to the Congress by the Administrator on the development of comprehensive and area wide plans; progress of water pollution control research efforts; development of effluent limitations and control techniques; status of State programs; identification and status of enforcement actions of that year; status of State, interstate, and local pollution control programs; and results of the Administrator's survey on the efficiency of the operation and maintenance of treatment works constructed with grants under this Act.

Section 516—General Authorizations

This section authorizes funds for those sections of the bill lacking specific authorization. The following sums are authorized: for fiscal 1972, $150,000,000; for fiscal 1973, $250,000,000; for fiscal 1974, $300,000,000; and for fiscal 1975, $350,000,000.

In developing the figures included in section 515 providing for authorizations of appropriations for the next four years to implement the bill as reported, the Committee considered experience with the Federal Water Pollution Control Act of 1965, the Clean Waters

Restoration Act of 1966 and the Water Quality Improvement Act of 1970 and further consulted with the Administration for estimates of resources needed to implement the proposed amendments.

Appropriations under existing law have been significantly below the amount authorized. This lack of funding has lessened the effectiveness of water pollution control.

This pattern cannot continue if the Congress and the Federal government are to retain credibility with the American people. The authorization figures contained in the bill represent the best estimate of the Committee, in consultation with the Administration, of what will be required to implement its provisions.

Only the availability of manpower, with adequate funding, can provide effective implementation of this Act. The committee expects that past trends will be reversed and that required manpower and resources will be made available to implement the program.

Section 517—Short Title

This section of the bill restates section 27 of existing law.

MISCELLANEOUS PROVISIONS

Section 3—Oversight Study

The Comptroller General is directed to study research work on waste water treatment for possible conflicts, as well as the efficacy of such programs and report to the Congress by March 1, 1973.

The Committee is concerned that research and demonstration programs dealing with water pollution and waste treatment authorized under this Act may conflict with or duplicate similar programs conducted or supported by other Federal agencies.

Section 4—Diked Disposal Areas

This section strikes subsection (h) of section 123 of the Rivers and Harbors Act of 1970.

The Rivers and Harbors Act of 1970 authorized the construction of diked disposal areas for dredged spoil in the Great Lakes. To reduce as much as possible the need to dispose of dredged spoil in open waters of the Atlantic and Pacific Oceans, it is important that such confined disposal areas be constructed on the East and West coasts, as well as the Great Lakes.

This section removes the limitation to the Great Lakes contained in the provision of the Rivers and Harbors Act of 1970 authorizing such facilities.

The Committee notes that the maintenance and improvement of non-Federal dock and berthing facilities adjacent to authorized Federal channels are essential to navigation. Therefore, private dredgers should be treated on the same basis as the Corps of Engineers, in utilizing diked disposal areas authorized under this section in the regulation of dredging activities and the disposal of dredged spoil, the Corps of Engineers and private dredgers should be subject to the same requirements.

SECTION 5—INTERNATIONAL AGREEMENTS

This section mandates the President to enter into international *pollution control agreements.*

The Committee has repeatedly expressed its concern with global environmental problems. Air and water are resources that do not respect the boundaries of sovereign states. Rapid development and expansion of industrialization has caused the degradation of these shared resources. There is need to formulate international policies that will preserve, protect, and enhance the quality of the world environment.

The Clean Air amendments of 1970 provided for a comprehensive and intensive attack on air pollution that included new source performance standards and controls over the emission of toxic substances. This bill would provide for new source performance standards and controls over the discharge of toxic substances. Discharges of pollutants into the territorial seas or through ocean outfalls would also be subject to regulation.

It is the belief of the Committee that there is adequate justification for internationally uniform controls and standards for the regulation of discharges of pollutants into the environment. The Committee places a high priority on the need to formulate and apply such uniform standards of performance for the control of effluents and emissions from any new sources wherever constructed. These standards should be framed to insure that new source are designed, built, equipped, operated, and maintained so as to reduce effluents and emissions to a minimum. Controlling toxic pollutants and the discharge of any pollutants into the oceans also demands priority attention in international agreements. Therefore the bill would provide the President with guidance in conducting the participation of the United States in these international efforts.

The 1972 United Nations Conference on the Human Environment affords the United States with an opportunity to seek multilateral cooperative action in areas of priority concern while concentrating on the creation of comprehensive global arrangements for environmental control.

The Committee believes that industrialized and developing nations must join together in addressing themselves to the problems of the world environment. It is the responsibility of the industrialized nations to provide assistance to developing nations to assure that a goal of progress without pollution will be achieved.

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ROLLCALL VOTES DURING COMMITTEE CONSIDERATION

During the Committee's consideration of this bill, 15 rollcall votes were taken (including those which were taken during consideration by the Subcommittee on Air and Water Pollution). Pursuant to section 133 of the Legislative Reorganization Act of 1970 and the Rules of the Committee on Public Works, these votes are announced here.

First, the Subcommittee took two rollcall votes on the Federal share of the costs of waste treatment works. On July 21, the Subcommittee adopted, 8–1, a minimum 60 per cent Federal share, with an additional 15 per cent in States with matching grant programs. Senators Bayh, Beall, Bentsen, Boggs, Montoya, Muskie, Randolph, and Tunney voted in the affirmative, and Senator Buckley voted in the negative. On August 4, the Subcommittee approved, 9–0, a minimum Federal share of 60 per cent, with additional matching funds on a dollar for dollar basis for States contributing a minimum of 5 per cent, up to a maximum Federal share of 75 per cent. Senators Beall, Bentsen, Boggs, Copper, Eagleton, Montoya, Muskie, Randolph, and Tunney voted in the affirmative. (Note: The final decision on this issue was by voice vote during consideration by the full Committee.)

The Committee voted on an amendment offered by Senator Buckley to provide a 100 percent initial Federal contribution to waste treatment works construction, with repayment by the community of 70 per cent of the cost over the life of the works. The amendment failed 3–9, with Senators Baker, Buckley, and Tunney voting in the affirmative, and Senators Bentsen, Boggs, Cooper, Eagleton, Gravel, Montoya, Muskie, Randolph, and Stafford voting in the negative.

Four rollcall votes were taken on the level of authorizations for the sewage treatment works construction grant program. On August 5, the Subcommittee rejected, 6–7, an amendment offered by Senator Cooper for authorizations of $2 billion in fiscal year 1972 and $2.5 billion in each of fiscal years 1973, 1974, and 1975. Senators Baker, Beall, Boggs, Buckley, Cooper, and Dole voted in the affirmative, and Senators Bayh, Bentsen, Eagleton, Montoya Muskie, Randolph, and Tunney voted in the negative. The Subcommittee then approved, 13–0, authorizations of $2 billion in fiscal year 1972, $3 billion in fiscal year 1973, $4 billion in fiscal year 1974, $5 billion in fiscal year 1975, and $6 billion in fiscal year 1976. Senators Baker, Bayh, Beall, Bentsen, Boggs, Buckley, Cooper, Dole, Eagleton, Montoya, Muskie, Randolph, and Tunney voted in the affirmative.

On September 28, Senator Cooper offered an amendment in the Committee to set the section 207 authorizations at $2 billion in fiscal year 1972, $3 billion in fiscal year 1973, and $4 billion in fiscal year 1974. The amendment failed, 8–8, with Senators Baker, Bentsen, Boggs, Buckley, Cooper, Dole, Stafford, and Weicker voting in the affirmative, and Senator Bayh, Eagleton, Gravel, Jordan, Montoya,

Muskie, Randolph, and Tunney voting in the negative. The Committee then accepted, 10–3, Senator Boggs' proposal that $2 billion be authorized for fiscal year 1972, $3 billion for fiscal year 1973, $4 billion for fiscal year 1974, and $5 billion for fiscal year 1975. Senators Bayh, Bentsen, Boggs, Dole, Eagleton, Gravel, Montoya, Muskie, Stafford, and Tunney voted in the affirmative, and Senators Baker, Buckley, and Cooper voted in the negative.

Senator Buckley offered an amendment in the Committee on September 28 to require industrial user charges to include only capital costs of construction and not interest costs. The amendment was adopted, 6–5, with Senator Boggs, Buckley, Cooper, Montoya, Randolph, and Stafford voting in the affirmative and Senators Bentsen, Eagleton, Gravel, Muskie, and Tunney voting in the negative.

The issue of reimbursement for treatment works constructed between 1956 and 1966 was addressed in three rollcall votes. Senator Eagleton offered an amendment in the Subcommittee on August 4 providing for such reimbursement, in addition to that provided in the draft then under consideration for treatment works constructed between 1966 and 1971. The amendment failed, 4–7, with Senators Bayh, Cooper, Eagleton, and Tunney voting in the affirmative, and Senators Beall, Bentsen, Boggs, Buckley, Montoya, Muskie, and Randolph voting in the negative. The Subcommittee then approved the language of the draft, 10–1, with Senators Baker, Beall, Bentsen, Boggs, Cooper, Eagleton, Montoya, Muskie, Randolph, and Tunney voting in the affirmative, and Senator Buckley voting in the negative.

Senator Eagleton offered his reimbursement amendment again, in the form included in the reported bill, in full Committee on October 13. It was adopted, 11–3, with Senators Baker, Bayh, Bentsen, Dole, Eagleton, Gravel, Jordan, Montoya, Muskie, Randolph, and Tunney voting in the affirmative, and Senators Boggs, Cooper, and Stafford voting in the negative.

On October 19, Senator Boggs offered an amendment to strike from the bill the authority to obligate authorized construction grant funds in advance of appropriation. The amendment failed, 5–9, with Senators Baker, Boggs, Buckley, Cooper and Stafford voting affirmatively, and Senators Bayh, Bentsen, Eagleton, Gravel, Jordan, Montoya, Muskie, Randolph, and Tunney voting negatively.

The Committee on October 13 approved, 12–3, an amendment offered by Senator Baker to eliminate from the citizen suit provision the mandatory award of litigation costs to a successful plaintiff. Senators Baker, Bentsen, Boggs, Buckley, Cooper, Dole, Eagleton, Gravel, Jordan, Montoya, and Randolph voted in the affirmative, and Senators Bayh, Muskie, and Tunney voted in the negative.

Senator Randolph offered an amendment providing that the Secretary of the Army would regulate the disposal of dredged spoil, rather than the Administrator. The amendment failed, 6–9, on October 19, with Senators Bentsen, Cooper, Gravel, Jordan, Montoya, and Randolph voting affirmatively, and Senators Bayh, Boggs, Buckley, Dole, Eagleton, Muskie, Stafford, Tunney, and Weicker voting negatively.

The vote of the Committee to report the bill, taken on October 19, was unanimous. Senators Baker, Bahy, Bentsen, Boggs, Buckley, Cooper, Dole, Eagleton Gravel, Jordan, Montova, Muskie, Randolph, Stafford, Tunney, and Weicker voted in the affirmative.

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ESTIMATES OF COSTS

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the Committee's estimate of the costs of reported legislation, together with a comparison of that estimate with any prepared by a Federal agency. The Committee has developed estimates of the costs to the Federal Government which would be necessary to carry out this legislation, and has used those estimates in determining the amounts which the bill would authorize for particular programs. These sums are indicated in the table below.

AUTHORIZATIONS

[In millions]

	Fiscal year—				No fiscal year
	1972	1973	1974	1975	
Sec. 104	$65	$70	$75	$80	
Sec. 104(g)(1)	7.5				
Sec. 104(g)(2)	2.5				
Sec. 104(p)	10	10	10	10	
Sec. 105	70	75	80	85	
Sec. 106	30	30	35	40	
Sec. 107					$30
Sec. 108					20
Sec. 112	25				
Sec. 113					1
Sec. 114					6
Sec. 206					1,500
Sec. 207	2,000	3,000	4,000	5,000	
Sec. 304		100	100	100	
Sec. 311					[1] 35
Sec. 314	50	100	150		
Sec. 516	150	250	300	350	
Total	2,410	3,635	4,750	5,665	1,992

[1] Revolving fund.

Many of the specific authorization items in the bill were based on estimates informally supplied by the Environmental Protection Agency. However, where the Committee estimates a need for $14 billion of Federal funds for waste treatment works construction grants through fiscal year 1975, the Environmental Protection Agency estimates a need for $6 billion of Federal funds through fiscal year 1974.

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COMMITTEE VIEWS

Water pollution control in the past has all too often been sporadic, inconsistent, and improvised on an ad hoc basis. The major purpose of this legislation is to establish a comprehensive long-range policy for the elimination of water pollution, making it clear to industry and municipalities alike the pollution control performance which will be expected over the next decade. At the same time, the bill provides a mechanism for generating sound, detailed information on the costs which will be associated with the later stages of the control program, and allow subsequent Congresses to evaluate the success of the policy enunciated in this bill.

The Committee recommends the passage of this bill.

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SUPPLEMENTAL VIEWS

SUPPLEMENTAL VIEWS OF SENATORS J. CALEB BOGGS, JOHN SHERMAN COOPER, HOWARD H. BAKER, ROBERT DOLE, AND JAMES L. BUCKLEY

SUPPLEMENTAL VIEWS

The Federal Water Pollution Control Act Amendments of 1971 represent a major step forward in the effort to enhance our environment and control pollution. We believe it is one of the most significant pieces of legislation that will be considered by the 92d Congress.

We endorse and support most of the concepts and programs within the legislation, and urge their support in the Senate.

However, there is one aspect of the legislation that we believe is unnecessary. This concerns the authority under which the Administrator of the Environmental Protection Agency could enter into contracts and other obligations under Section 207 for the financing of municipal waste treatment facilities. Such contract obligation authority would enable the Administrator in large measure to skirt the appropriations process in assisting municipalities for the construction of waste treatment facilities.

The sums authorized in Section 207 are necessary and appropriate, but we do not believe that a contract authority provision is essential to accelerate the water pollution control program. Rather, because of potential technological breakthroughs, we believe it would be wise for the Congress, through the appropriations process, to make an annual examination of the justification for funds to be spent for waste treatment grants.

We fully agree that the water pollution control program holds a very high priority in any list of national goals. But we believe that contract authority is a too restrictive fiscal tool, as it removes the flexibility the Congress and the President should have to re-examine spending levels annually.

The Congress, in appropriations bills for the current fiscal year as well as the two preceding fiscal years, has clearly demonstrated its support for the national water cleanup effort. As a result, we believe that a contract authority provision in no way is necessary to assure financial support for this important aspect of the legislation. Rather, it may actually prove to be detrimental by removing the program one step from the appropriations process.

J. CALEB BOGGS.
JOHN SHERMAN COOPER.
HOWARD H. BAKER, JR.
ROBERT DOLE.
JAMES L. BUCKLEY.

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Supplemental Views of Senator Bob Dole

The bill reported by the committee adopts many of the proposals offered by the President in his February 10, 1971, environmental message and has been developed through a long process of consultation and discussion between the committee and the administration.

A major new thrust of this bill is in the field of agricultural pollution, and as a Senator from an agricultural State and a member of the Senate Agriculture Committee, this matter is of great interest to me and my State.

The bill would amend the Federal Water Pollution Control Act to place responsibility on the States for instituting and expanding the control of water pollution related to agriculture. To assist the States in this effort, the Environmental Protection Agency, working closely with the Department of Agriculture, is directed by the bill to provide technical expertise and in some cases financial assistance for combatting this serious, yet extremely complex, form of pollution. A total of $10 million is provided for agricultural research.

This bill recognizes that the U.S. Department of Agriculture and the agricultural community in general have made great strides in improving the quality of the environment; therefore, the bill does not attempt to parallel or duplicate the contributions already made but seeks to incorporate them into the framework of the act.

The committee report discusses the operative provisions of the bill in considerable detail and describes some of the problems associated with agricultural pollution. Since this is a new area for pollution control legislation, I would like to discuss some of the more important aspects of this area which lie within the scope of the bill's operations.

Agricultural pollution control is concerned primarily with the following:

Sedimentation
Animal wastes
Fertilizers
Pesticides, Fungicides and Herbicides
Forest and crop residues
Agricultural processing wastes
Inorganic salts and minerals

The management and control of these factors are essential to the maintenance of environmental quality while providing food and fiber products in abundant quantity. At the outset, I believe it is important to recognize that we are undertaking the first step in establishing an overall water pollution control system. Before solutions can be effected, we must, first, identify and define the problems which face us, and second, we must then take into account the available means of control and the costs of each type of control.

I believe discussion of three specific problem areas—pesticides, animal wastes and fertilizers—will be helpful in understanding the complexity of the agricultural problem and at the same time indicate the need for coordinated control programs.

Most of the problems of agricultural pollution deal with non-point sources. Very simply, a non-point source of pollution is one that does not confine its polluting discharge to one fairly specific outlet, such

as a sewer pipe, a drainage ditch or a conduit; thus, a feedlot would be considered to be a non-point source as would pesticides and fertilizers.

PESTICIDES, HERBICIDES AND FUNGICIDES

Pesticides provide substantial benefits to mankind by protecting plants and animals from pest losses. It has been estimated that without pesticides, food production would be reduced by 40 to 50 percent, with substantial accompanying reductions in quality also.

Approximately 50,000 species of fungi cause more than 1,500 plant diseases; of about 30,000 species of weeds 1,800 cause serious economic losses each year; and nearly 1,500 varieties of nematodes cause significant damage. In addition, there are more than 10,000 species of insects capable of causing large losses in food, feed and fiber production. A number of agricultural chemicals are used to control these problems, and their ecological impact must be taken into account in the formulation of agricultural production programs.

The chief hazard of pesticide use lies in the long-lasting properties possessed by many of them. Some, such as DDT, retain their potency for virtually unlimited periods after application, their residues are introduced into the complicated food chains at work in nature, and, ultimately, they become concentrated at levels which are hazardous to both animal and human life.

Pesticide residues are of concern in three ways. First, residues become attached to soil particles and may reach water through runoff and erosion. Second, some crops pick up and accumulate excess residues when irrigated with water contaminated through runoff erosion.

Third pesticide residues in water are picked up at low levels by certain marine organisms which result in relatively high concentrations being reached in organisms at the top of the food chain.

The use of pesticides and other agricultural chemicals will undoubtedly retain a high level of importance in agriculture for the foreseeable future. In the meantime efforts at both State and Federal levels are paying off in securing the registration and adherence to recommended usages. Increased research is underway to develop alternative means of pest, weed and fungal control. Experiments are underway to develop integrated programs in which cultural, mechanical, chemical and biological methods are combined to achieve the greatest degree of control at the least expense to the environment.

Every possible effort must be made to see that in achieving control appropriate chemicals are applied at carefully controlled minimum rates. Off-target applications must be reduced, and soil and water conservation measures must be utilized to prevent movement of chemicals through runoff and erosion.

The ideal solution to the problem of pesticide residues would be to employ only pesticides which degrade after application and leave no toxic or hazardous after-products. The difficulty in this solution, however, appears to be that the available alternative chemicals which are non-persistent are extremely toxic to human life in the forms in which they are effective in pest control.

Immediate dangers to human life are posed by these extremely toxic chemicals, such as parathion which has been recommended as a substitute for DDT. These substances, commonly referred to as "hot" chem-

icals, are recommended for use because they do attack the pests against which persistent chemicals have proven effective, but they do not persist in their toxic state for long periods after application. Shortly after application, these chemicals start to disintegrate and are soon absorbed by natural processes leaving no residual accumulation to endanger wildlife or man. The difficulty in their use arises out of their high original toxicity. These chemicals cause most of the deaths from pesticides in the Nation. Mere exposure to dust from a parathion sack has resulted in the death of children, and farmers, justifiably, are fearful to use these "hot" chemicals.

ANIMAL WASTES

Animal and poultry waste, until recent years, has not been considered a major pollutant. Until the past ten or fifteen years few problems existed, because animals were relatively wide-spread on pasture and rangeland and their manure was deposited on the ground to be naturally recycled through the soil and plant cover. Even housed livestock and poultry were supplied with bedding or litter to absorb moisture from manure and facilitate handling in solid form through spreading back on the land.

The picture has changed dramatically, however, as development of intensive livestock and poultry production on feedlots and in modern buildings has created massive concentrations of manure in small areas. The recycling capacity of the soil and plant cover has been surpassed. In these modern facilities the use of bedding and litter has been greatly reduced; consequently, the manure which is produced remains essentially in the liquid state and is much more difficult to handle without odor and pollution problems. Precipitation runoff from these areas picks up high concentrations of pollutants which reduce oxygen levels in receiving streams and lakes and accelerate the eutrophication process.

The present situation and the outlook for future developments in livestock and poultry production show that waste management systems are required to prevent wastes generated in concentrated production areas from causing serious harm to surface and ground waters. Some 115 million dairy and beef cattle, 20 million sheep and lambs, 67 million hogs and pigs and over 900 million poultry, turkeys and broilers produce an estimated 1.6 to 1.8 billion tons of manure each year. This quantity is more than 12 times the amount produced by the human population. Fortunately, only a small portion of this manure is produced under concentrated conditions having a high potential for pollution. Estimates vary, but a reasonable assumption would be that no more than 20 percent of total manure production poses a threat to our water resources. Of this 20 percent, of course, only a small fraction of the pollutants it contains will actually reach ground or surface waters through leaching or surface runoff. However, with increasing concentration of livestock and poultry production in modern facilities the pollution problem will become more serious.

The situation is not one in which solutions appear to be of doubtful value or impossible to accomplish. At the present time waste management systems are being installed by animal and poultry producers with technical assistance from the U.S. Department of Agriculture and the

States. These systems are proving to be effective in preventing pollutants from reaching surface and groundwaters. Systems are also being developed to recycle wastes through the land and its plant cover. Research is being carried out to improve waste management systems. Hearings held by the Air and Water Pollution Subcommittee in Kansas City this year disclosed the fact that those States, such as Kansas, which have large numbers of feedlots are in the forefront of efforts to develop new techniques for waste management. Information and instruction programs are being conducted to notify producers of animal waste problems.

FERTILIZERS

When virgin soils were first cultivated in America, they were rich in organic matter and plant nutrients and provided far more nitrogen and phosphorus than crops could use. In those early days losses to ground and surface waters, as well as to the atmosphere, were very high. As a result of cultivation over the years, these natural supplies have been gradually and greatly diminished, and with this diminution in natural nutrients came a corresponding and accelerated use of fertilizers. By 1969, the annual application of almost 7 million tons of nitrogen fertilizer was insufficient to replace the yearly drop in the soils capacity to supply this vital element in plant growth. Today, still greater amounts of all kinds of fertilizers are being applied.

This large-scale use of commercial fertilizer with high nitrogen and phosphorous content comes at a time of increasing public concern about eutrophication of lakes and streams and the presence of nutrients in ground water.

As the committee bill recognizes, much remains to be learned about eutrophication. In the meantime, control of nitrogen and phosphorous in surface waters is receiving wide attention as a means of limiting growth of algae and aquatic plants. It is known that nitrogen and phosphorous are essential nutrients for the growth of algae and aquatic plants, and that they do not usually occur naturally in concentrations which affect water quality. In addition, it is well established that nitrogen, when converted to nitrates, readily leaches to ground water, an important fact, because concentration of nitrate in excess of 45 mg/l. in drinking water is considered hazardous. Other elements such as potassium, calcium and magnesium are also necessary for such growth but are usually present in nature in abundant supply and present no great difficulty without the additional presence of nitrates and phosphorous.

Phosphorous in fertilizer is immediately tied up by clay particles in the soil upon application, so its primary route to becoming a problem is through soil erosion by flowing water. Thus, with proper fertilizer application and good land management phosphorous cannot be considered a significant problem in the use of fertilizers.

The best solution to problems arising from use of commercial fertilizers is sound management of their use; and in this regard it should be remembered that cost-benefit relationships will always work to minimize the application of any agricultural chemicals. Fertilizer should be applied to crops only in necessary minimum effective amounts and at times when crops can utilize it. Good land management, through use of conservation practices to prevent soil erosion and reduce surface

runoff from cultivated or fertilized areas, is the most practical approach to minimizing fertilizer problems.

CONCLUSION

It is my belief that the bill establishes an effective framework to provide for the application of the expertise developed by U.S.D.A. and others in a program which will remedy the adverse impact of agricultural activities on water pollution. It will do this by placing primary responsibility in the States, while still providing integrated programs to achieve water pollution control from all sources. Only in this manner will the quality of the Nation's water resources be insured and maintained.

SUPPLEMENTAL VIEWS OF SEN. JAMES L. BUCKLEY

The Federal Water Pollution Control Act Amendments of 1971 is landmark legislation in our national effort to achieve a quality environment. Moreover, it seems destined to be controversial because it may attempt to achieve too much on the basis of too little information; because it will increase the federal financial contribution to waste treatment plants to so high a percentage that the net effect may be a lower total national investment in such plants while placing an unnecessary new strain on an increasingly inflated federal budget; because despite the pious references to the primacy of the state role in water quality efforts, it may well threaten in too many instances to reduce the role of the states and local governments to that of "errand boy", so that the bill may, in fact, encourage states to withdraw from the national effort.

Lest my remarks be interpreted in too negative a vein, I want to make it clear that my complaint is that this constructive bill might have been better; that some of the ideal objectives to which it has given legislative shape might give rise to such unattainable expectations on the one hand, and to such unwarranted concerns on the other, that in the longer run, the bill may set back the cause of water quality and unnecessarily discredit the environmental movement. And finally, I am concerned that the concentration of scarce resources in attempting to achieve a perhaps impossible degree of performance in just one area of environmental concern may divert or postpone public and private investment in other areas where far more tangible, far more essential near-term results could be achieved.

In these remarks I will address myself to three principal areas. The first has to do with the naming of a specific target date (1985) for the achievement of the national goal of no-discharge; the second has to do with the size of the federal contribution; and the third with the responsibility relegated to the states:

ALLOCATION OF RESOURCES

Although it is technically true that no single provision in the bill specifically mandates the application of a "no-discharge" standard by 1985 or by any other date, it appears clear to me the bill will operate in such a way as to make it increasingly difficult for the Administra-

tor or any State official charged with regulatory responsibilities under the Act to impose a standard less stringent than "no-discharge", particularly with respect to the "phase" ending on January 1, 1981 (section 301(b)(2)(A)).

I have no quarrel with the "no-discharge" standard as a statement of the ideal towards which we should focus our efforts. On the contrary, I would welcome as eagerly as any other American the quality of water that would result form the elimination of the discharge of all pollutants, intelligently defined.

However, we cannot lose sight of the fact that there is, somewhere, an outside limit to what the public—as taxpayers and consumers—will be willing to invest over any given period in the improvement of the environment. The commitment of resources to one sphere of activity means that those resources are no longer available for other competing needs where a given investment can, on balance, do more to move us towards achievement of all of our environmental goals.

I have little, if any, idea of the investment—in terms of the total resources available to us—that will be required to achieve the goals set forth in this legislation. But I do suspect that no one else does either; and that the attempt to reach an incremental degree of perfection beyond that required for a steady, dramatic improvement in water quality may dry up funds which could far better be utilized to achieve significant breakthroughs in other areas affecting the environment.

The bill is by no means devoid of provisions that address themselves to the kind of potential misallocation of resources that I have suggested. With the justifiable exception of the provisions of section 307, which would impose controls on toxic pollutants in harmful amounts, the imposition of any effluent standard (including "no-discharge") pursuant to the Act would be subject to some sort of economic test. The Committee devoted considerable time to the search for a way to balance the costs of control against the benefits achieved. Sections 302(b) and 305(b)(1)(D) are examples of the Committee's efforts to strike a balance. But these provisions themselves vest an awesome responsibility in the Administrator. Tens of thousands of individual effluent standards will be imposed pursuant to this Act, each of which will have to be tailor-made. Compliance with each of these standards will require the investment of nonproductive capital resources, whether the source of discharge be publicly or privately owned. In each instance, the Administrator or his designee will be called upon to make often complex economic determinations of the kind that are traditionally resolved in response to the imperatives of a system of markets and prices. National water quality standards must in fact be met, if we are to achieve our necessary goals. But to expect what may prove to be an inordinately theoretical standard of omniscience on the part of the Administrator, given our near-term technological capabilities, may unnecessarily restrict his ability to apply the rule of Common Sense in the achievement of effective progress.

The bill adopts the rather curious approach of establishing the "no-discharge" standard by 1985 as "national policy" (section 101(a)(1)) and then providing procedures whereby the Congress will be given the opportunity, somewhere in the mid-1970's, to decide whether such a policy is achievable or, in fact, desirable (section 305). I wholeheart-

edly support the idea that the Congress should continually review the progress of the program and make judgments as to its future course. But I confess to a concern that the opportunity to make the "mid-course correction" envisioned by section 305 may come too late to achieve its intended purpose, i.e., Congressional reevaluation of the 1985 "no-discharge" policy.

For example, section 301(b)(2)(A) would require the application of the "no-discharge" standard by 1981 to existing sources unless the owner of the source is able to persuade the Administrator that "no-discharge" is not "reasonable". It seems likely to me that, in light of the lead time required, dischargers will need to know not later than 1976 what will be expected of them by the 1981 deadline. And yet, it is in 1976 or 1977 that the Congress will be making its section 305 review of the "no-discharge policy". I anticipate confusion.

The wisdom to propose an answer to this dilemma is not at my command. While I acknowledge that the bill does not enforce a "no-discharge" standard by 1985, I continue to believe that the bill would be improved by deletion of the date itself. It holds out a promise to the American people that is, I fear, however desireable, unrealistic. And barring some welcome breakthrough in control technology, should the 1985 "goal" operate as an enforceable standard, I reluctantly conclude that the cost of implementing it—in terms of the total resources available to us—is likely to prove unacceptable, if not prohibitive. But worst of all, it may (a) breed an antienvironmentalist backlash which will set us back years in our struggle to save the environment, and (b) divert the large sums required to achieve, in the end, breakthroughs in such other urgent matters as developing pollution-free means of generating electricity.

FEDERAL SHARE

In the matter of the size of the federal contribution to the construction of waste treatment facilities, I cannot agree with the majority's view that it should be increased from a maximum of 55%, as provided in the current program, to a maximum of 70%. I am not at all persuaded that an accelerated investment in waste treatment works will be stimulated by increasing the federal share. Such an increase may, in fact, reduce the number of plants on which construction could begin during the next five years. Under present legislation, enacted in 1966, the size of the federal share is increased from 30% to 55% of the cost of an approved water treatment facility if the state undertakes to contribute 25% and if certain other requirements are met.

Although, as of September 1, 1971, thirteen states had still declined to qualify for additional federal contributions under the existing law, testimony before the Committee made it amply clear that the "heel dragging" had little, if anything, to do with the percentage of the federal share. The one major complaint was that the Federal contributions promised in early legislation were not sufficiently dependable. There is little reason to believe, therefore, that raising the federal ante will be very significantly more effective in causing the remaining states to make the grants contemplated in the proposed bill. Furthermore, those 38 states (including the District of Columbia) which already

agree to pay 25% of the costs account for 90% of the total estimated* construction needs for fiscal years 1972, 1973 and 1974. Hence, in the overwhelming number of projects which might be built, the act of increasing the federal share will merely substitute federal dollars for state dollars. Since this bill encourages the states to contribute only 10% of the cost of construction to qualify for a 70% federal grant, there is little reason to expect these 38 states to maintain the 25% to 30% contribution which they presently make.

Furthermore, the increase in the federal share may well be to make it politically impossible for a State or community to move faster than the federal contribution will allow.

Given, for example, that the total amount of federal funds available in a single fiscal year is $2 billion, a 55% federal share would generate $3.63 billion worth of construction, whereas a 70% federal share would generate $2.86 billion worth, a difference of about $370 million in total construction which would be initiated in that year. By way of comparison, $370 million is the equivalent of the total estimated construction needs for as many as 26 states for fiscal year 1972; or, to be fair, as few as one state (e.g., Illinois) which has particularly burdensome water pollution abatement requirements.

There is ample testimony that delays in the construction or modernization of sewage treatment facilities under existing legislation are not so much attributable (if at all) to the size of the basic federal contribution as to other factors such as a community's own conception of its priorities, an unwillingness to go to the voters for an authorization of new debt issues, or, in some instances, a technical impediment imposed by statute (e.g., debt or interest ceilings) and, perhaps most importantly, the unavailability of federal funds. There are also, of course, those communities which simply do not have the credit rating required to enable them to borrow the necessary funds at a reasonable price. To some degree, the Administration's proposed Environmental Financing Authority will alleviate this difficulty. However, I cannot agree that the most efficacious and fiscally prudent means of dealing with these relatively limited number of situations is to increase the federal share and thereby restrict the number of plants on which construction could be initiated in a given fiscal year.

An additional observation one might make in this regard is that a periodic upping of the federal ante will have the counter-productive effect of inducing some communities to delay the planning and construction of modern sewage treatment facilities in the expectation of a better deal in a later year. If 70% this year is good, 90% in a few more years is better. And this expectation would not seem unreasonable, given legislation which has in fact been introduced.

I readily acknowledge the need for a strong, residual federal presence behind environmental quality programs. The problems of the environment, as a rule, respect no political boundaries and are, therefore national. Where state and local governments, for whatever reason, are unwilling to act or unable to act, the federal government has a necessary obligation to intervene. But this bill, in my judgment, presupposes and anticipates inadequate state action.

*These estimates, "need assessments," were made by the Environmental Protection Agency as of December 1970, and were based on the standards in effect in the states at that time.

My concern is not theoretical or doctrinaire. The active participation by state and local governments in this program, and a mood of cooperation and interdependence between those units of government and EPA, are essential to the success of the program. The federal government cannot possibly, as I see it, administer this program without the active cooperation of the states. And I question whether competent state officials will approach their responsibilities with dedication and enthusiasm, if their every act is subject either to prior approval or subsequent review by the Administrator.

STATE ROLE

From the outset of the Committee's deliberations, I have been, and remain, concerned that the detailed requirements of this Act will work to erode the initiative and flexibility of the States in exercising "their primary responsibility and rights . . . to prevent and eliminate water pollution." Notwithstanding that it is the policy of the Congress to recognize, preserve, and protect that responsibility (section 101(b)), the overall effect of this bill is to mandate to the federal Administrator what I believe to be excessively broad and detailed responsibility over the most minute aspects of the State's programs. Section 106, for example, which grants federal funds and imposes conditions upon the States for the award of these funds, provides the Administrator with the authority (in subsection (j)) that, "notwithstanding the fact that a State is in compliance with the requirements of subsections (g) and (h) of this section to reduce, after notice and opportunity for hearing, the grant payable to such State in such fiscal year if he determines, based on criteria established in regulations promulgated by him, that the water pollution control program of such State is inadequate in whole or in part." Given the natural history of bureaucracies, such a provision could, at best, prove mischievous.

In addition to the direction that the Administrator must stipulate the elements which a state program must include, he is required to judge the acceptability of the system of charges which each and every applicant will impose upon all users of waste treatment services as a condition of receiving a grant; he must determine the capability of 50 States to qualify for delegation of authority for a waste discharge permit system; he must approve waste treatment management plans for each State and each regional agency created within each State; and he must, once he has disposed of all these duties, continue to be responsible, as the ultimate enforcer, for the maintenance of every last provision imposed upon him and upon the States by this Act, whether or not these minutiae actually affect the achievement of water quality standards.

In closing, I would like to say something rather personal. I am the only member of the Committee on Public Works who has not had previous legislative experience. I have had rather definite points of view on a number of provisions which at one time or another have appeared in the drafts of the legislation which is now before the Senate. But I know of no situation in private life where a newcomer would have been accorded greater consideration, or where differences of opinion would have been given a fairer hearing than that which

was characteristic of both the Committee on Public Works and its Subcommittee on Air and Water Pollution. I feel particularly fortunate to be a member of both and to have been able to work with the two chairmen and the committee staff, who have made so great an effort to accommodate differences of approach to common objectives.

JAMES L. BUCKLEY.

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate. Therefore, this report does not contain a line-type and italic comparison of the bill with existing law.

This bill re-enacts the Federal Water Pollution Control Act in its entirety, with amendments. The discussion of intent indicates the effect of the amendments on existing law. Section 8 of the Federal Water Pollution Control Act, dealing with construction grants for waste treatment works, is replaced by Title II of this bill. Section 10 of existing law, containing standard-setting and enforcement language, is replaced by Title III, Title IV, and sections 504 and 505 of this bill. The material of section 11 (oil pollution) and section 12 (hazardous polluting substances) of existing law are combined in section 311 of this bill, while section 13 (sewage from vessels) is now section 312.

Research, training, and special demonstration programs from existing law are collected in Title I of this bill, with the statement of policy and State program grants (formerly section 7, now section 106). Title V of the bill contains definitions and general administrative provisions from the existing law, together with new matter.

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APPENDIX A

The following water pollution control bills, introduced during the first session of the 92nd Congress, were considered by the Subcommittee on Air and Water Pollution in its 1971 series of public hearings:

S. 75 (SENATOR NELSON)—DETERGENT POLLUTION CONTROL ACT

The Administrator of the Environmental Protection Agency shall issue standards of water eutrophication, biodegradability, toxicity, and of effects on the public health and welfare which must be met by all synthetic detergents. It shall be unlawful after June 30, 1973, for any person to import or manufacture any detergent not in compliance with these standards. Federal assistance is provided to accelerate the development and manufacture of detergents that are pollution free.

S. 192 (SENATOR NELSON)—MARINE POLLUTION CONTROL ACT

After June 30, 1975, no citizen of the United States shall dispose of refuse materials originating within the U.S. into the Great Lakes, the coastal waters of the United States or the high seas without a permit from the Administrator of the EPA with concurrence of the Council on Environmental Quality.

S. 280 (SENATOR NELSON)—NATIONAL LAKES PRESERVATION ACT

Establishes a National Lake Areas System to preserve, protect, and make accessible the lake areas of the Nation (to be composed of both federally administered lake areas and lake areas administered by the States). The Secretary of the Interior shall conduct a nationwide study of lake areas considering resource, economic, recreational, agricultural, and industrial values to establish the most appropriate means of preserving and protecting such areas. The Secretary is authorized to issue regulations governing the public use of Federal lake areas. The Secretary shall support, assist, and encourage progams, including grants and contracts, of lake and lake area research, investigation, and experiments.

S. 281 (SENATOR NELSON)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Protects the navigable waters of the United States from further pollution by requiring that pesticides manufactured for use in the United States or imported for use in the United States comply with certain standards of biodegradability and toxicity. It shall be unlawful after June 30, 1973, for any person to import or manufacture pesticides which do not comply with these standards.

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S. 523 (SENATOR MUSKIE)—NATIONAL WATER QUALITY STANDARDS ACT

Authorizes a five year national program of $25 billion for the construction of waste treatment plants to improve and achieve more efficient waste treatment. The Administrator of the EPA shall issue standards to protect and enhance the existing quality of all waters. These standards shall apply to all navigable waters and their tributaries and must be adopted with a statutory deadline and attained within three years of approval. Ocean discharges would be regulated through permits granted by the Administrator. Negligent violation of a water quality standard, requirement of an implementation plan, or an order of the Administrator would be liable to a civil penalty of $10,000 per day. A knowing violation would be subject to criminal penalty of $25,000 per day or imprisonment for up to one year. The Administrator may enter and inspect effluent sources. Any person may sue a polluter to abate a violation of water quality standards. Discharge of hazardous substances would be prohibited.

S. 601 (SENATOR SAXBE)—TO AMEND THE WATER POLLUTION CONTROL ACT

Provides assistance for river basin programs, not to exceed 50% of administrative, investigatory, operator training, and water quality control inspection costs of carrying out a basin water quality management plan.

S. 679 (SENATOR STEVENS)—TO AMEND THE REFUSE ACT OF 1899

Increases penalties relating to wrongful deposit of certain refuse, injury to harbor improvements, and obstruction of navigable waters from $2,500 to $100,000, and repeated infractions would be treated as separate violations each day they continue.

S. 1011 (SENATOR WILLIAMS)—NATIONAL MARINE WATERS POLLUTION CONTROL ACT

Provides means and measures to control the discharge of wastes transported by any means from areas within the U.S. and to protect and enhance the quality of the marine environment. Prohibits the discharge or the contribution to discharge of wastes from any vessel, except sewage discharged from marine sanitation devices. There shall be a civil penalty of not more than $100,000 per violation. Within 180 days after enactment, the Administrator of the EPA shall issue proposed regulations governing the discharge of wastes by any owner or operator of a vessel or onshore or offshore facility into or upon all or any portion or portions of the waters beyond the contiguous zone. The Administrator shall make grants to any State, municipality, or other political subdivision for the construction of treatment works annually.

S. 1012 (SENATOR COOPER)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Amends Sections 5, 6, and 7 providing increased authorizations for appropriations to assist the State and interstate water pollution con-

trol programs. Provides additional flexibility to the Administrator of the EPA in awarding such grants through increased use of incentives. Provides additional research and development authority. Provides for development of new technology in the area of advanced waste treatment, combined sewers, and industrial waste treatment.

S. 1013 (SENATOR COOPER)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Amend Section 8 providing a new program of financial assistance to States and municipalities for the construction of treatment works. Includes a new provision to assure the development of financial and operation and maintenance capability in the States and municipalities in construction and maintenance of waste treatment works. Authorizes $6 billion in Federal funds: $2 billion for each of the next 3 fiscal years, to be matched by contributions up to 55 percent in State and local funds for the construction of a total of $12 billion of waste treatment works throughout the Nation. Revises the allocation formula to provide greater flexibility to meet the most critical water pollution problems, and provides a new formula for reimbursement of prefinanced Federal shares.

S. 1014 (SENATOR COOPER)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Amends Section 10 providing for a strengthened program to establish, implement, and enforce water quality standards. Extends the Federal-State program for the establishment and approval of standards and plans applicable to all navigable and ground waters. Establishes effluent standards as the primary pollution abatement mechanism in implementation plans to achieve water quality standards. Modifies enforcement provisions to include immediate Federal abatement, information acquisition, and emergency authority.

S. 1015 (SENATOR COOPER)—ENVIRONMENTAL FINANCING ACT

Creates the Environmental Financing Authority under the supervision of the Secretary of the Treasury. Insures that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction waste treatment works. EFA would be authorized to buy the State and local bonds at rates to be determined by the Secretary of the Treasury. EFA would be authorized to issue taxable obligations on the market.

S. 1017 (SENATOR MONDALE)—CLEAN LAKES ACT

Authorizes the Administrator of the EPA to increase the Federal grant percentage for the treatment works to a maximum of 65 percent of the costs for treatment works which are located near or adjacent to any lake and which discharges wastes into the lake or tributary waters, if the States pay at least 20 percent of the costs. Authorizes the Administrator to provide technical and financial assistance to the States and municipalities in carrying out a comprehensive program of pollution control.

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S. 1082 (SENATOR CASE)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Regulates the discharge of wastes in territorial and internationa waters until five years after the date of enactment, prohibits such dis charge thereafter, authorizes research and demonstration projects t determine means of using and disposing such wastes. After a five-yea period, dumping is prohibited anywhere in ocean waters or Grea Lakes.

S. 1143 (SENATOR EAGLETON)—A BILL TO AMEND THE FEDERAL WATE POLLUTION CONTROL ACT

Provides a national commitment for financing of expanded pro grams under the Federal Water Pollution Control Act to assure bette coordination in development of clean water programs. Authorize grants to States and interstate agencies to assist them in meeting cost of establishing and maintaining adequate measures for prevention anc control of water pollution, including training of personnel of publi agencies.

S. 1238 (SENATOR BOGGS)—MARINE PROTECTION ACT OF 1971

Regulates the dumping of material in oceans, coastal, and othe waters. EPA Administrator is authorized to issue permits for dump ing of materials or for transporting of such materials to areas where dumping in his judgment will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities. Administrator is required to establish criteria for evaluating permit applications. Attorney General is authorized to bring action for equitable relief of violations. Surveillance and enforcement authority is given to the Coast Guard.

S. 1259 (SENATOR MAGNUSON)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Amends Section 8 of the Federal Water Pollution Control Act to authorize a special 20 per cent incentive grant for new construction of pollution abatement works by any municipality which has built sewage projects since 1956 that qualified for Federal assistance at the time of building but did not receive the 30% Federal grant then authorized. Authorizes not to exceed $10-billion to finance the programs and activities under this section.

S. 1286 (SENATOR BOGGS)—EMERGENCY WATER POLLUTION PREVENTION ACT OF 1971

Amends the Federal Water Pollution Control Act by inserting a new section on Control of Ocean Pollution. EPA Administrator is authorized to develop and promulgate regulations on the future control of ocean dumping by using a permit system no later than six months after the effective date of enactment. Permits are to allow ocean disposal only where it will not produce a harmful effect on the

environment and only in areas designated by the Administrator outside the territorial waters and beyond the Continental Shelf. Until the permit system is established, the bill would prohibit any ocean discharge.

S. 1781 (SENATOR NELSON)—CLEAN WATER FINANCING ACT OF 1971

Effective for fiscal years beginning after July 1, 1971, section 8 of the Federal Water Pollution Control Act is amended to provide 90 per cent Federal aid for the construction or upgrading of municipal waste treatment plants.

Authorizes the EPA Administrator to incur obligations in the form of grant agreements or otherwise in amounts not to exceed $25-billion during the next five years, with Congress liquidating the obligations at the rate of $5-billion a year.

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APPENDIX B

The following water pollution control bills, introduced during the second session of the 91st Congress, were considered by the Subcommittee on Air and Water Pollution in its 1970 series of public hearings:

S. 3181 (SENATOR PROXMIRE)—REGIONAL WATER QUALITY ACT OF 1970

Secretaries of Interior and Treasury to establish by June, 1971, a schedule of national effluent charges for all substances other than domestic sewage which detract from water quality. Charges shall be determined on basis of waste discharged and relationship to resulting damage of waterway. Revenues collected by Secretary of Treasury shall be deposited in a trust fund. This fund to be distributed as follows: 50 percent to municipalities for construction of waste treatment facilities; 50 percent to regional water management associations for same purpose. Violators subject to fines of $1,000 to $5,000 per day of violation.

S. 3468 (SENATOR SCOTT)—ENVIRONMENTAL FINANCING ACT OF 1970

Establishes the Environmental Financing Authority, subject to supervision of Secretary of Treasury. Authorizes up to $100 million for initial capital. Purpose to assure all communities can get financing at reasonable rates for local share of waste treatment plant construction. EFA would be authorized, where Secretary of Interior certifies a community cannot get financing, to buy the State and local bonds at rates to be determined by Secretary of Treasury. EFA would be authorized to issue taxable obligations on the market.

S. 3470 (SENATOR SCOTT)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Amends language relating to grants for research and demonstration on water pollution control projects. Authorizes $125 million per fiscal year for fiscal years 1970, 1971, and 1972 for contracts and grants to research sewage treatment methods, effects of pollution on water uses, etc. For State and interstate programs, provides graduated authorizations starting with $12.5 million in fiscal year 1971 and increasing to $30 million for fiscal year 1975. Of this, $10 million a year (equal to the current authorization) is to be available for the basic program of assisting State and interstate groups to administer their water pollution control programs. The additional funds may be used for grants to States agreeing to develop an improved water pollution control program meeting certain criteria. (This amount can be up to 25 percent of basic Federal grant under existing sections). Secretary also can make special project grants to State or interstate agencies for projects exception in scope of problems they cover.

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S. 3471 (SENATOR SCOTT)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

Changes the declaration of policy in Section 1(a) from the current "to enhance the quality and value of our water resources" to "enhance the quality of our environment." Sets forth enlarged Federal role in water pollution abatement. Expands standards requirement to navigable, boundary and ground waters and waters of the contiguous zone. Eliminates need for governor's request for federal enforcement of standards in intrastate cases. Adds effluent standards as part of water quality standards program. Specifies fines of up to $10,000 a day. In case of violation, Secretary must notify polluter 180 days before initiating abatement procedures. Not less than 21 days after this notice, there shall be a public hearing. If there has not been remedial action within 180-day period, Secretary may request Attorney General to bring suit.

S. 3472 (SENATOR SCOTT)—CLEAN WATER FINANCING ACT OF 1970

Secretary of Interior authorized to incur obligations of $4 billion for grants for waste treatment facilities. Of this, $1 billion would be available during each of 4 fiscal years beginning fiscal year 1971. Secretary to submit report by January, 1973, outlining addition needs for fiscal years 1975 through 1979. 30 and 50 percent share formula remains the same. Formula for Federal share of 40 percent changed. State would have to guarantee 25 percent of cost, rather than present 30 percent. Eliminates bonus for conformity with water quality standards, substitutes requirement all grants must comply with regulations prescribed by Secretary. Revises allocation formula to provide 60 percent of funds to be allocated under present criteria of population and financial need, 20 percent to be allocated on basis of State agreements to pay at least 25 percent of cost, and 20 percent on basis of Secretarial determination of severity of water pollution problems and ability to conform to basin-wide abatement program. Eliminates 10 percent bonus for compliance with a metropolitan plan, making such compliance a requirement for all grants.

S. 3484 (SENATOR NELSON)—MARINE ENVIRONMENT AND POLLUTION CONTROL ACT OF 1970

Prohibits all dumping of refuse originating in U.S. into oceans, Great Lakes, or coastal waters after June 30, 1975, except on a temporary permit from the Secretary of the Interior on a finding that there is no other feasible means of disposing of such refuse. In the interim, such dumping would be permitted only with a permit issued by the Secretary. Before issuing permit, Secretary must hold public hearings and solicit views of State officials, other Federal departments. His decision can be vetoed by the Council on Environmental Quality.

Sets up in Department of Interior an Advisory Committee on the Marine Environment, and also charges Secretary with establishing an Inter-Agency Committee on Marine Resources Management, with representatives from other departments. As of three years from effective date of amendments, no submerged lands under jurisdiction of

Secretary shall be leased for oil or other minerals without a management plan in effect for that area. Whenever such a lease is proposed, or when the Secretary thinks its desirable, he shall in consultation with above groups, study the area and develop a management plan. The management plan shall afford protection for plant and animal life, ecological and other systems and recreational values of the area. This plan shall allow a given use only upon the Secretary's finding that it does not risk environmental damage.

S. 3488 (SENATOR WILLIAMS)—NATIONAL MARINE WATERS POLLUTION CONTROL AND QUALITY ENHANCEMENT ACT OF 1971

Amends Section 17 of the Federal Water Pollution Control Act to prohibit discharge of wastes into the waters of the contiguous zone, except under regulations promulgated by the Secretary of the Interior. Provides for issuance of regulations by the Secretary governing the discharge of wastes and for the designation of areas where such controlled discharges are permitted.

S. 3500 (SENATOR NELSON)—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

S. 3507 (SENATOR NELSON)—DETERGENT POLLUTION CONTROL ACT OF 1970

These bills are similar; one more comprehensive than the other. S. 3500 makes it unlawful after June 30, 1972, to import or manufacture detergents containing phosphorus on basis that these detergents contribute to water pollution. Detergent in violation may be seized and destroyed or sold, with proceeds to U.S. Treasury, provided that such detergents are not to be used for purpose contributing to pollution. S. 3507 contains identical provisions banning phosphorus in detergents. In addition, it stipulates that the Secretary of Interior shall establish by June 30, 1971, standards for detergents relative to eutrophication, biodegradability, toxicity and effects on the public health and welfare. Any detergent not in compliance after June 30, 1972, is liable to seizure and court action. Conviction of violation is punishable by a fine up to $5,000.

S. 3614 (SENATOR COOK)—FEDERAL PROCUREMENT AND ENVIRONMENT ENHANCEMENT ACT OF 1970

Any person or corporation under court order to abate pollution or found to be in violation of water pollution laws or regulations is made ineligible to enter into a contract for procurement of goods or services with the Federal Government. All Federal agencies, before entering into contracts, must require proof of compliance with water pollution control laws on part of person or corporation entering into the contract. Also contains similar provisions relative to air pollution law.

S. 3687 (SENATOR MUSKIE)—NATIONAL WATER QUALITY STANDARDS ACT OF 1970

Increases Federal grant authorization for waste treatment facilities to $2.5 billion a year for 5 fiscal years (1972–1976). This would pay

Federal share of $25 billion worth of construction. Continues present system of 30, 40 and 50 percent grants based on State aid level and compliance with water quality standards. As incentive to river basin planning, authorizes grants of up to 60 percent in basins designated by the Secretary of Interior where waste treatment works are part of basinwide plan which plan meets certain statutory requirements. Doubles level of Federal assistance to State and interstate program to $20 million a year beginning in fiscal year 1972. Adds requirement Federal assistance to be used to aid in implementation and enforcement of water quality standards. Extends standards program to all navigable waters (instead of interstate waters as at present). Requires that all standards include effluent requirements and compliance schedules. Provides for public hearings on setting standards. Prohibits discharge in violation of standards. Authority for Secretary of Interior to issue orders, requiring abatement and prescribing time for compliance. Appeal procedure. Failure to comply or appeal, subject to court action. Knowing violation of standards or refusing to comply with order subject to penalties of one year in prison, $25,000 per day of violation, or both. Prohibits Federal loans, grants, contracts or permits to firms not complying with water quality standards. Protects workers who give information in proceedings under the Act. Authorizes Secretary to bring immediate court action in event of substantial endangerment to persons or wildlife.

S. 3688 (SENATOR MUSKIE)—CLEAN WATER COMMITMENT ACT OF 1970 (INTRODUCED AT REQUEST OF NATIONAL LEAGUE OF CITIES AND U.S. CONFERENCE OF MAYORS)

Increases authorization for Federal share of waste treatment construction to $10 billion for 5 fiscal years at $2 billion per year. Shifts emphasis of pollution control to river basin plan, requiring commission to be set up for each basin, with representative from each affected State. Each commission must adopt comprehensive pollution abatement plan. Federal government authorized to pay up to 50 percent of administrative expenses of such commissions. Authorizes $25 million a year, beginning in fiscal year 1972, for grants to States and basin commissions for administrative and planning costs. No grant shall be approved unless project has been approved by basin commission and affected States. Limits Federal share of waste treatment projects to 50 percent as general rule. Exception is that this share can go up to 70 percent for communities that in past have paid 80 percent or more as local share of such projects.

S. 3697 (SENATOR MONDALE)—CLEAN LAKES ACT OF 1970

Would authorize the Secretary of the Interior to increase the Federal grant percentage for treatment works under Section 8(b) of the Federal Water Pollution Control Act to a maximum of 65 percent of the costs for treatment works which are located near or adjacent to any lake and which discharges wastes into the lake or tributary waters, if the States pay at least 20 percent of the costs. Authorizes an annual appropriation of $150 million for fiscal years 1972, 1973, 1974, and 1975 for the purpose of funding these increased

grants. Authorizes the Secretary to provide technical and financial assistance to the States and municipalities in carrying out a comprehensive program of pollution control. Authorizes up to 80 percent Federal grants for this program from a total appropriation of $900 million over a 6-year period beginning in fiscal year 1972. Authorizes the use of experienced Federal water resources agencies such as the Bureau of Reclamation and the Corps of Engineers to help carry out this program under agreements with the States; and provides measures to enforce water quality standards for lakes subject to this program.

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1.2p(2) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 92-911, 92d Cong., 2d Sess. (1972)

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

MARCH 11, 1972.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BLATNIK, from the Committee on Public Works, submitted the following

REPORT

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany H.R. 11896]

The Committee on Public Works, to whom was referred the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"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 1981;

"(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 and abate 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 and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement 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, control, and abatement 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, or effluent limitation 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 minimiza tion 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.

"(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

"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 abating or reducing 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 public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. 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 for the purpose of water quality control, 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 this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

"(3) 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 water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control 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 nonreimburseable.

"(5) 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 and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement 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 and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and abatement 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 and abatement of pollution and as part of such program shall—

"(1) in cooperation with other Federal, State and local agencies, con-

duct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement of polution;

"(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, 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 regulations under this Act; and shall transmit a report on the results of such research to the Congress not later than July 1, 1973.

"(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 polution control agencies, interstate agencies, and 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) to establish and maintain research fellowships at public or nonprofit private educational institutions or research with other Federal depart-

"(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 and abatement thereof; and

"(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement 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 Secretary 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 remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

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

"(3) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control pollution not susceptible to other means of abatement.

"(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 and control 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.

"(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 of 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, control, and abatement 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 fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control 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 num-

ber 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, and abatement 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 October 3, 1972, 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 alternative 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 prod-

ucts 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 results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"(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. 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 methods 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 and abating 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, abating, 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.

"(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 development 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) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of 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 one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973 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, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

"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 and abating 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 pollution 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.

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"(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. 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 and containing 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 and abating 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 agriculture 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, abating, 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 the cost thereof as determined by the Administrator; and

"(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) or (2) of subsection (a).

"(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 $70,000,000 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).

"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

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"(2) $75,000,000 for the fiscal year ending June 30, 1974;
for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

"(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 polluion problem in he 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) 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 and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

"(f) 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.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. 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, 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 from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

"(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency 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, or personal property or services, the value of which shall be determined by the Administrator; and

"(2) that the State or interstate agency 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.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"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 abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

"(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 provide 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 sources of in-place pollutants, 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. 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.

"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 subsection (a), 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 subsection (a).

"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 findings—

"(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 subsection (a)) pay to the institution of higher education 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, and June 30, 1974, to carry out sections 109 through 112 of this Act.

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"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 January 31, 1974, 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.

"ECONOMIC GROWTH CENTERS

"SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

"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.

"(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 technology and aerated treatment-spray-irrigation technology.

"(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)(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 workers 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.

"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 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. 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 consruction 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 certifies that the quantity of available ground water will be insufficient to meet the future requirements for public water supply, unless effluents from publicly-owned treatment works after adequate treatment, are injected into the ground to replenish the supply of ground water.

"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(d)(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 construction to such project.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant 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.

"LIMITATIONS AND CONDITIONS

"SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(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;

"(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 performance, 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(d)(1) after June 30, 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, maintenance (including replacement), and expansion 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; and (C) has legal, institutional, management, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

"(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) 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, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance with regulations promulgated by the Administrator.

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"(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.

"ALLOTMENT

"SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, 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 the table on page 18 of volume I of Senate Document 92-23 entitled 'The Cost of Clean Water'. 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. 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.

"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, 1971, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of Federal funds or (2) with financial assistance authorized by such section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimbursement of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1974, to the maximum extent that assistance could have been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and adequate funds had been available (including retroactive State participation).

"(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 immediately 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 per centum of the cost of such project.

"(c) 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.

"(d)(1) In any case where all funds alloted 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 alloted 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 section 208 and 209, for the fiscal year ending June 30, 1973, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

"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 appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization capable of developing effective areawide waste treatment management plans for such area. The Government 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.

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"(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) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

"(5) Designations under this subsection shall be subject to the approval of the Administrator.

"(b)(1) No later than two years 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.

"(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 carry out 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 related nonpoint sources of pollution, including 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; and

"(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.

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"(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.

"(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, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(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 has been designated under this 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(d)(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.

"(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

"(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.

"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 by a Governor or Governors under paragraphs (2) and (3) 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 under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

"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.

"(4) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

"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 January 1, 1967, 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 January 1, 1976, 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 January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, establish pursuant to any other State or Federal law or regulation, or required to implement any applicable water *quality standard established pursuant to this Act.*

"(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

"(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph. Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation

for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

"(c) 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.

"(d) 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.

"(e) 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.

"(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet effluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification 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 periods ends first.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or 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) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intent to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the person submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, 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, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental 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) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State 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, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental 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.

"(3) 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, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

"(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 requirements. 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 legitimate uses, 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.

"(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

"(d)(1) 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. Each State shall establish for the waters so identified, and in accordance with the priority ranking, 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.

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Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

"(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred 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 load established under paragraph (1) 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 its current plan under subsection (e) of this section.

"(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish 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, at a level that would implement the water quality standards.

"(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 States' 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)(B), 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 areawide 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.

"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 natural 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 and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) 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.

"(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 any 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 take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, 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 available demonstrated control measures and practices 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 demonstrated technology shall take into account the age of equipment and facilities involved, the process employed

(including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, 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 polluants.

"(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 one year 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 imolement section 201 of this Act

"(e) 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)(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, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing tests 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) The Administrator shall (1) within ninety 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 ninety 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) The Administrator shall, within one year 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.

"(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 caried 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. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation wtih the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, during 1972, 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 analysis of discharges) of pollutants into all navigable waters and the waters of the continguous 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 1976 or 1981; 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 July 1, 1974, and shall bring up to date each year 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 provides 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 economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievements; and (iii) 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 April 1, 1975, and annually 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 or modification 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 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants, discharged by a source.

"(6) 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;
"ironferrous 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 factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(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) 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.

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"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 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 the receiving 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 the receiving 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 publication) 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.

"(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.

"(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.

"(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.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, 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.

"(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 introducion 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. 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, or otherwise is incompatible with such works.

"(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.

"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, on 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 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 Administator 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.

"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, 308, or 316 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.

"(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, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, 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.

"(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 district 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, 308, or 316 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, 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 505(5) of this Act, any responsible corporate officer.

"(d) Any person who violates section 301, 302, 306, 307, 308, or 316 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.

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"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 results 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 traveltime) 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 bare-boat-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, American 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.

"(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, 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 is itself actually removable.

"(ii) 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 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 disposal 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 disposal characteristics of such substance.

"(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 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 threatens 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 (2) 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 (2) 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 vessel 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, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, 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 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;

"(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; and

"(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 disperants 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.

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 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, 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 $100 per gross ton of such vessel or $14,000,000, whichever is lesser, 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, 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 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, 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, 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.

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"(g) 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. 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 occured 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 fund 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 discharged 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 or 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 regulation, 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 developments, 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 action 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, 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, finan-

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cial 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 susbtances. 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 them by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"MARINE SANITATION 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;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembly, 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) 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.

"(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 devices 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 compalince 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 indutsries 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 complaince 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 respect to such vessel on the date of such compliance.

"(3) 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.

"(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 Coast 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 subsection (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 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 person charged in attempting to achieve rapid compliance, after notification of a violaion, shall be considered by said Secretary.

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"(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 vessels, (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. 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 exemption 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.

"(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 $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 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 ACADEMIES STUDY

"SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, 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 1981 in section 301(b)(2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Nowithstanding the provisions of section 301(b)(2) of this title or any other provision of this Act to the contrary, effluent limitations, goals, and policies established for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

"(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

"(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

"REGULATION OF THERMAL DISCHARGES

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) di'ution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, 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, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, un'ess the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regu'ations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regu'ations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

"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.

"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, 306, 307, and 316 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, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) 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 me 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 of sections 301, 302, 306, 307, and 316 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, 306, 307, or 316 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 faciltiy 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, 306, 307, or 316 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, 306, 307, or 316 of this Act,

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) 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, or any regulation under section 316 of this Act, 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 or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, 316, 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 may 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 insurance compliance with, all applicable requirements of section 308 of this Act, or

"(B) Except with respect to sources owned or operated by the United States, 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 an 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)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

"(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

"(7) 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; and

"(8) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(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 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 if the Administrator within sixty days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit.

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"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(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 subsection 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 programs.

"(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) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

"(h) 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.

"(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 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, 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.

"(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

"(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(l) 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, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, 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, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), 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.

"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.

"(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 hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

"(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403 (c) (1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

"(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirement which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

"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 on 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 whch qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate 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, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(6) The term 'pollutant' means, but is not limited to, 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 dirct and industrial, municipal, agricultural, and other 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 the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

"(7) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(8) The term 'navigable waters' means the navigable waters of the United States, including the territorial seas.

"(9) 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.

"(10) 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.

"(11) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(1) 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 (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(13) 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.

"(14) The term 'toxic pollutant' 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, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(15) 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, or from which there is or may be a thermal discharge.

"(16) 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.

"(17) The term 'thermal discharge' means the introduction of water into the navigable waters or the waters of the contiguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

"(18) The term 'discharge' when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

"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 State, 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 home 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, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the allaged 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) under subsection (a) (1) of this section—

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 nottice 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 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 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 affluent 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 standard 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 applicable by reason of section 313 of this Act).

"(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

"(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 fi'ed, 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, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established 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) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 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

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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.

"(b) Review of the Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306(b)(1)(C), (3) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested person in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty 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 thirtieth day.

"(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.

"STATE AUTHORITY

"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, standard of performance, or thermal discharge regulation 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, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation 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.

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"(b) The consultation and coordination requirements of the Act of March 10, 1934, as amended (16 U.S.C. 661, et seq.), shall apply under this Act only to the provisions of (1) section 306 of this Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

"(c) 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.

"(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and any Federal license or permit for the construction of any activity; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

"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 contracts 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 Numbered 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).

"AGRICULTURAL FACILITIES

"SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

"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 stand-

ard 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 Commitee shall transmit to 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 fill 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, areawide 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 tehcniques; (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.

"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, 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.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $6,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

SAVINGS PROVISIONS

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which

may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot. and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarliy undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

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LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers) or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between the policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d) (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e) (1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g) (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same exent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority

pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

BACKGROUND

America's waters are in serious trouble, thanks to years of neglect, ignorance and public indifference. Almost from its inception in 1946 the Committee on Public Works has been trying to bring to reality an effective properly funded program to restore and enhance the quality of our waters and to insure their future as a lasting national asset.

Prior to the Reorganization Act of 1946 there had been some legislation enacted in this general field—The Refuse Act of 1899, the Public Health Service Act of 1912 and the Oil Pollution Act of 1924. However, it was not until after the Committee on Public Works was established and considered the problem of water pollution control to be sufficiently serious for national attention that, in 1948, the first comprehensive measure aimed specifically at that problem was enacted. This landmark legislation was Public Law 80–845.

Public Law 80–845 essentially had a five-fold purpose:

1. Authorized the Surgeon General to assist in and encourage State studies and plans, interstate compacts, and creation of uniform State laws to control pollution.

2. Supported research.

3. Authorized the Department of Justice to bring suits to require an individual or firm to cease practices leading to pollution—suits could be brought only after notice and hearings, and only with the consent of the State.

4. Established the Federal Water Pollution Control Advisory Board.

5. Provided authorization for funding.

a. $22.5 million a year for Fiscal Years 1949–1953 for low interest (2 percent) loans for construction of sewage and waste treatment works. Loans limited to $250,000 or one-third the cost of the project.

b. $1 million a year for Fiscal Years 1949–1953 for grants to States for pollution studies.

c. $800,000 a year for Fiscal Years 1949–1953 for grants to aid in drafting construction plans for water pollution control projects.

Public Law 82–579, enacted in 1952 extended the provisions of the 1948 Act for an additional three years through Fiscal Years 1954–1956.

The emergence of the national water pollution control program as a permanent program came about with the enactment of Public Law 84–660 in 1956. This Act, which was brought about by the efforts of the Public Works Committee, provided legislation of a comprehensive nature and permitted Federal participation in a wide variety of activities, including Federal-State cooperation in developing comprehensive programs, increased technical assistance, intensified and broadened, research; provided $3 million a year in grants for Fiscal years 1957–1961 to assist in the preparation of State plans for pollution control, $500 million for grants to help local communities build sewage treatment plants for Fiscal Years 1957–1966; and modified and simplified enforcement measures for controlling pollution of interstate waters.

In 1961, the Nation was beginning to realize the need for an active and accelerated water pollution control program. After considerable hearings, the Public Works Committee recommended to the Congress H.R. 6441 and this eventually became enacted as Public Law 87–88. The major provisions of that Act were as follows:

1. Vested administration of program in Secretary of Health, Education, and Welfare (previously Surgeon General).

2. Authorize grants to local communities for sewage treatment plants of:

(*a*) $80 million in Fiscal Year 1962

(*b*) $90 million in Fiscal Year 1963

(*c*) $100 million in Fiscal Years 1964–1967

3. Raised Federal contribution to 30 percent of total cost or $600,000 whichever was less (formerly 30 percent or $250,000).

4. Permitted Federal grants as high as $2.4 million where communities unite to build one project.

5. Authorized seven regional laboratories for research and demonstration in improved methods of sewage treatment and control.

6. Permitted the HEW Secretary, through the Justice Department to bring court suits to require an offender to cease activities causing pollution in interstate waters without seeking permission of the State.

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7. Extended pollution abatement procedures of the Act to navigable intrastate and coastal waters, but required permission of owners before Federal enforcement suit could be brought to stop activities in such waters. (Previously abatement procedures applied only to interstate waters).

The water pollution control program as we know it today was put into present shape by enactment of the Water Quality Act of 1965 and the Clean Waters Restoration Act of 1966.

Under the Water Quality Act of 1965 (P.L. 89–234), the States were given the initial opportunity of adopting by June 30, 1967, water quality standards for their interstate waters, and plans to implement and enforce the standards for approval by the Administrator of the Environmental Protection Act as Federal standards. (The Reorganization Plan No. 2 which was effective May 10, 1966, transferred the Federal Water Pollution Control Administration, as well as most of the functions of the Secretary of HEW authorized by the Federal Water Pollution Control Acts, to the Secretary of the Interior. Subsequently, Reorganization Plan No. 3, July 1970, transferred the water pollution control program to the Administrator of the Environmental Protection Agency). If the State fails to adopt adequate criteria and plans, the Administrator is authorized to initiate Federal actions to establish standards.

The Water Quality Act of 1965 also provided for grants for research and development in better methods of controlling pollution from stormwater and combined sewer overflows and for increased amounts for constructing sewage treatment works ($150 million for Fiscal Years 1966 and 1967).

The Clean Water Restoration Act of 1966 (P.L. 89–753) authorized a massive Federal participation in the construction of sewage treatment grants. The legislation authorized a total Federal expenditure of $3,550,000,000 during Fiscal Years 1967–1971. Unfortunately, despite the demonstrated need for such Federal expenditures, the appropriations for Fiscal Years 1967–1970 have been just a little over 50 percent of the authorized amounts.

The Water Quality Act of 1970, enacted on April 3, 1970 (P.L. 91–224) included major innovations in the law concerning oil pollution from vessels and on-shore and off-shore facilities. Federal permits and licenses, sewage pollution from vessels and hazardous substances discharged into the waters of the United States. In addition, one of the most important provisions was the creation of the Office of Environmental Quality to furnish staff support for the Council of Environmental Quality established pursuant to Public Law 91–190.

Hearings

The Committee on Public Works conducted long and intensive hearings, starting in May 1971, first to determine what has been done or not done with the existing legislation, and then to consider proposals for strengthening, expanding, and accelerating the water pollution control program.

The Committee received testimony from everybody who wanted to be heard: from our leading universities, from business and industry, from environmentalists, from the general public, from labor organizations, from Congress, from Federal, State, and municipal govern-

ments, and from the Environmental Protection Agency, which is responsible for carrying out the laws the Congress has enacted in this program.

The hearings were divided into three stages. The first stage, involving 12 days of hearings over a 6-week period, 32 witnesses, and 10 additional statements received for the record, was an oversight of the existing program. These hearings entailed a searching review and appraisal of all our water pollution control activities to judge the effectiveness of public expenditures in this area, and to decide what program changes or new legislation would be needed to clean up our waters, and keep them clean, more effectively than has been the case to date.

The second stage involved hearings on over 200 separate introduced bills amending the existing Federal Water Pollution Control Act. These hearings were held on 22 days and involved 178 witnesses and 50 additional statements submitted for the record.

The third stage followed the introduction of H.R. 11895 and H.R. 11896, in December, cosponsored by the 37 members of the Committee. The hearings were held over 4 days and involved 84 witnesses and 75 additional statements offered for the record. This set of hearings was considered necessary because several provisions of the bills were new and far reaching, and the Committee decided that in all fairness to the public all interested parties should have an opportunity to express their views. Cosponsorship of all members of the Committee did not mean that they all agreed on all provisions of the bill as introduced. But out of the full and frank discussion of these provisions has emerged legislation that the Committee considers to the effective and administratively workable—a bill that will, at long last, get us moving in high gear on the task of restoring the purity of our waters and preserving them for future generations.

Thus, over a 7-month period, the Committee held 38 days of hearings, listened to 294 witnesses, and received 135 additional statements for the record. The record of the three sets of hearings required 4,155 printed pages.

Format of the Bill

H.R. 11896, as reported, consists of 13 sections, and the bill as a totality is referred to as "The Federal Water Pollution Control Act Amendments of 1972."

Section 2 of the bill is "The Federal Water Pollution Act" as it is amended by this legislation. This Act is divided into 5 titles:

Title I: Research and Related Programs.
Title II: Grants for Construction of Treatment Works.
Title III: Standards and Enforcement.
Title IV: Permits and Licenses.
Title V: General Provisions.

Other sections of H.R. 11896 are:

Section 3: Authorizations for Fiscal Year 1972.
Section 4: Savings Provision.
Section 5: Oversight Study.
Section 6: International Trade Study.
Section 7: International Agreements.
Section 8: Loans to Small Business Concerns for Water Pollution Control Facilities.

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Section 9: Environmental Court.
Section 10: National Policies and Goals Study.
Section 11: Efficiency Study.
Section 12: Environmental Financing Act of 1972.
Section 13: Sex Discrimination.

INDEX TO FEDERAL WATER POLLUTION CONTROL ACT

TITLE I. RESEARCH AND RELATED PROGRAMS

Section 101: Declaration of Goals and Policy.
Section 102: Comprehensive Programs for Water Pollution Control.
Section 103: Interstate Cooperation and Uniform Laws.
Section 104: Research, Investigations, Training and Information.
Section 105: Grants for Research and Development.
Section 106: Grants for Pollution Control Programs.
Section 107: Area Acid and Other Mine Water Pollution Control Demonstrations.
Section 108: Pollution Control in Great Lakes.
Section 109: Training Grants and Contracts.
Section 110: Application for Training Grant or Contract; Allocation of Grants or Contracts.
Section 111: Award of Scholarships.
Section 112: Definitions and Authorizations.
Section 113: Alaska Village Demonstration Projects.
Section 114: Economic Growth Centers.

TITLE II. GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Section 201: Purpose.
Section 202: Federal Share.
Section 203: Plans, Specifications, Estimates and Payments.
Section 204: Limitations and Conditions.
Section 205: Allotment.
Section 206: Reimbursement and Advanced Construction.
Section 207: Authorization.
Section 208: Areawide Waste Treatment Management.
Section 209: Basin Planning.
Section 210: Annual Survey.
Section 211: Sewage Collection Systems.
Section 212: Definitions.

TITLE III. STANDARDS AND ENFORCEMENT

Section 301: Effluent Limitations.
Section 302: Water Quality Related Effluent Limitations.
Section 303: Water Quality Standards and Implementation Plans.
Section 304: Information and Guidelines.
Section 305: Water Quality Inventory.
Section 306: National Standards of Performance.
Section 307: Toxic and Pretreatment Effluent Standards.
Section 308: Inspections, Monitoring and Entry.

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Section 309: Federal Enforcement.
Section 310: International Pollution Abatement.
Section 311: Oil and Hazardous Substance Liability.
Section 312: Marine Sanitation Devices.
Section 313: Federal Facilities Pollution Control.
Section 314: Clean Lakes.
Section 315: National Academies Study.
Section 316: Regulation of Thermal Discharges.
Section 317: Financing Study.
Section 318: Aquaculture.

TITLE IV. PERMITS AND LICENSES

Section 401: Certification.
Section 402: National Pollutant Discharge Elimination System.
Section 403: Ocean Discharge Criteria.
Section 404: Permits for Dredged or Fill Material.

TITLE V. GENERAL PROVISIONS

Section 501: Administration.
Section 502: General Definitions.
Section 503: Water Pollution Control Advisory Board.
Section 504: Emergency Powers.
Section 505: Citizen Suits.
Section 506: Appearance.
Section 507: Employee Protection.
Section 508: Federal Procurement.
Section 509: Administrative Procedure and Judicial Review.
Section 510: State Authority.
Section 511: Other Affected Authority.
Section 512: Separability.
Section 513: Labor Standards.
Section 514: Agricultural Facilities.
Section 515: Effluent Standards and Water Quality Information Advisory Committee.
Section 516: Reports to Congress.
Section 517: General Authorization.
Section 518: Short Title.

Highlights of Bill

H.R. 11896, as reported, includes the following provisions:

The objective of the bill is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

It is declared to be national goals to eliminate the discharge of pollutants into the waters of the United States by 1985 and to achieve water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water to be achieved by 1981.

It is stated policy of the bill to prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct publicly owned waste treatment facilities, to increase

research and development, to expand the regional and basin planning and management programs, and eliminate red tape in the administration of water pollution control programs. It is stated to be the policy of the Congress to encourage Federal-State efforts in the water pollution control policy.

It is also declared to be the policy that the President shall take action to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of water pollution in their waters and international waters and for the achievement of goals to at least the same extent as the United States does.

In order to achieve these policies and goals, the following provisions are included in the program:

1. Authorizes appropriations of $600,000,000 for basic and advanced research, development, and training.

2. This program recognizes the need for an expanded and improved State participation in the water pollution control program. The grants for the funding for State programs have been increased from $30,000,000 for the previous 3 years to $135,000,000 for the next 2 years.

3. The program would encourage alternative systems including advanced technologies and land disposal systems including the Muskegon system.

4. It is required in the implementation of this bill that the agencies consider all potential impacts relating to water, land, and air to insure that in enhancing the water quality, other significant environmental problems are not created.

5. Authorizes $18,000,000,000 for construction of waste treatment works for fiscal years 1973–1975. This includes construction of treatment facilities and collector sewer systems, including systems for treatment of storm sewer run-off.

6. Establishes the basic Federal share of construction grants at 60 percent. If a State pays 15 percent of the cost, the Federal grant is increased to 75 percent.

7. Provides for contract authority for construction grants.

8. Establishes allocation of grant funds to the States on the basis of need for waste treatment works.

9. Provides that projects initiated after 1956 which meet the requirements of the previous Acts would be eligible for retroactive grants. $2,750,000,000 is authorized for this purpose.

10. Provides for user charges to assure that recipients of waste treatment services will pay their share of the cost of constructing, operating, and maintaining waste treatment facilities. The portion of the Federal grants for construction which is applicable to industrial user wastes will be retained by the local waste treatment works management agency to provide for its needs.

11. Emphasizes the necessity for areawide waste treatment management and makes provisions for areawide management agencies; $350,000,000 is authorized to the Environmental Protection Agency and the Corps of Engineers to assist in carrying out this areawide waste treatment management. The Water Resources Council is directed to complete comprehensive river basin plans by January 31, 1980, and $200,000,000 is authorized to be appropriated to carry out these plans.

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12. Retains the process in existing law for establishing water quality standards for interstate waters. The bill further requires that water quality standards be established for all navigable waters.

13. Requires point sources other than publicly owned treatment works to utilize the best practicable control technology currently available or a higher level of treatment if required to meet water quality standards.

14. Requires those publicly owned treatment works for which grants are approved as of June 30, 1974, or which are in existence on January 1, 1976, to have effluent limitations based on secondary treatment.

15. Because of concern about the economic and social impacts of the desirable objective of attaining the 1981 and 1985 goals, the bill requires that the National Academy of Sciences complete within 2 years of the enactment of this bill, a comprehensive study of the economic, social, and environmental costs, impacts, and benefits. The 1981 and 1985 goals would not be implemented until the Congress has an opportunity to evaluate the report and take further action.

16. Requires that new sources of water pollution be constructed to meet a standard that reflects the greatest degree of effluent reductions that can be achieved by the use of the best available demonstrated control technology. If practicable, the standard would permit no discharge of pollutants. Each new plant or modification of an existing plant will be required to follow such standards unless it can be demonstrated that the economic, social and environmental costs of achieving this standard exceed the economic, social and environmental benefits.

17. Requires the Administrator to publish a list of toxic pollutants. Six months thereafter the Administrator must publish proposed effluent standards for the listed pollutants. This standard when justified could prohibit any discharge of toxic material.

18. Requires pretreatment of those effluents from industrial facilities which are discharged into publicly owned treatment works and which would interfere with the operation of the treatment process or which would not be susceptible to treatment by such works.

19. Repeals existing enforcement procedures, including conferences and 180-day actions for violation of the water quality standards. The bill substitutes a system of enforcement based upon discharge permits and effluent limitations. Violations under the provisions of this bill could result in penalties of up to $50,000 and 2 years in jail.

20. Modifies existing provisions of law dealing with oil pollution to add liability for the cleaning up of any hazardous material discharged into navigable waters. Under the bill, EPA is required to designate materials and quantities of such materials that are hazardous. To be judged hazardous, a substance must present an element of substantial danger to the public health and welfare, including danger to fish, shellfish, and beaches. The person responsible for a discharge of any hazardous substance which cannot be removed is made liable to a penalty not to exceed $50,000. There is no limitation of liability for willful discharges.

21. Requires Federal facilities to meet the same effluent limitations and water quality standards as private sources of pollution unless the facility is specifically exempted by the President. The President cannot exempt any source from new source performance standards or toxic and pretreatment standards.

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22. Requires all States to identify and classify their lakes according to eutrophic conditions and to establish procedures and to carry out methods to control and restore polluted lakes. $250,000,000 is authorized for this program.

23. Adds new provisions for thermal discharges. The bill provides for continuing comprehensive studies of the effects and methods of control of thermal discharges which shall consider costs, benefits, environmental impacts, and methods to minimize adverse effects and maximize the beneficial effects of thermal discharges. The results of these studies shall be reported within 1 year. The Administrator is required to issue proposed regulations for control of thermal discharges within 1 year after enactment of the Act. Permits for thermal discharges are required as a part of the national discharge permit program.

24. Declares to be unlawful the discharge of any pollutant by any person except as specifically authorized in the bill. The bill establishes a Federal-State discharge permit program. All permits issued under this program shall be consistent with the specific requirements of the bill, including effluent limitations or other limitations, national standards of performance, toxic and pretreatment standards, and ocean discharge guidelines.

25. Provides that upon enactment of this bill, no new permits will be issued under the 1899 Refuse Act. Permits previously issued under that Act will be considered to be permits under this new program. Pending applications under the Refuse Act program would be transferred from the Corps of Engineers who are administering the 1899 Refuse Act to the Environmental Protetcion Agency who would be initially responsible for the administration of the new program.

26. The Administrator shall promulgate guidelines which spell out the details of a State program which would be capable of managing the permit program. Those States which in the Administrator's judgment have programs which meet these guidelines would assume the responsibility of managing the permit program in those States. In States which fail to meet the guidelines, the Administrator will carry on the program. In the interim, while the guidelines are being promulgated, the Administrator may grant authority to those States that have an adequate program to issue permits, except that in these cases all permits proposed to be issued would be subject to the review and approval of the Administrator.

27. The permit program includes the regulation of discharge into the navigable waters, territorial sea, the waters of the contiguous zones, and the oceans.

28. Establishes provisions for citizen participation in enforcement of control requirements and regulations created by this bill. Anyone who has standing may initiate a civil suit against any person who is alleged to be in violation of a Federal or State effluent standard or limitation or an order with respect to such a standard or limitation and may initiate a civil suit against the Administrator for failure to perform a nondiscretionary act. The bill grants standing to citizens of the area having a direct interest which is or may be affected and to a group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

29. The bill precludes the Federal Government from patronizing or subsidizing polluters through its procurement practices and policies.

30. Directs the Secretary of Commerce to make an investigation and study of the effect that the costs of undertaking abatement control programs would have on the competitive position of the United States manufacturers as compared with foreign industrial nations not having the same degree of pollution control. This study would include alternative means of equalizing any competitive cost advantage that foreign nations may have and encouraging them to implement pollution and abatement programs. $1,000,000 is authorized for the study and an initial report is due within 6 months from the date of the enactment of this section.

31. Amends the Small Business Act and makes available $800,000,000 to make loans to assist small concerns likely to suffer substantial economic injury in meeting the water pollution requirements established under the Federal Water Pollution Control Act. These loans would be for the purpose of making additions or alterations in the equipment, facilities, including the construction of treatment facilities and interceptor sewers, or methods of operation.

32. Requires the President to investigate and report to the Congress within 6 months the feasibility of establishing a separate court or court system to deal with environmental matters.

33. Requires the President to make an investigation and to report the results to the Congress within 2 years of all national policies and goals heretofore established by law with the purpose of determining the relationship between these possibly competing policies and goals. This evaluation should take into account the available resources of the Nation. $5,000,0000 is authorized for this study.

34. Authorizes the establishment of an Environmental Financing Authority (EFA) under the supervision of the Secretary of the Treasury for the purpose of facilitating the efforts of State and local governments to obtain funds to finance their share of the construction costs of waste treatment facilities that receive grants from the Federal Government.

Analysis of the Bill

Section 1.—This is the short title of the bill—"The Federal Water Pollution Control Act Amendments of 1972."

Section 2.—The existing Federal Water Pollution Control Act consists of 27 sections. Section 2 of H.R. 11896, as reported, would restructure the Act by replacing the 27 sections with 5 titles, each of which would be divided into an appropriate number of sections.

In order to fully understand section 2, it is necessary to recognize that certain terms used in the drafting of this section have very specific and technical meanings. The definitions of these terms are included in section 502 of title V, and it is recommended that very special attention be accorded section 502. However, since these terms will be used in this report with the same meanings as they are given in the legislation, it is appropriate to note some of the more important terms at this point.

(1) The term "pollution" means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

(2) The term "pollutant" means, but is not limited to, 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, agricultural, and other 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 the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (c) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (d) organic fish wastes.

(3) The term "discharge of a pollutant" and the term "discharge of pollutants" 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.

(4) The term "thermal discharge" means introduction of water into the navigable waters or from a point source at a temperature different from the ambient temperature of the receiving waters.

(5) The term "discharge" when used without qualification means both discharges of a pollutant or of pollutants and a thermal discharge.

(6) 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, or from which there is or may be a thermal discharge.

TITLE I—RESEARCH AND RELATED PROGRAMS

Section 101—Declaration of Goals and Policy

Subsection (a) of section 101 declares the objective of this legislation to be the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters.

The word "integrity" as used is intended to convey a concept that refers to a condition in which the natural structure and function of ecosystems is maintained.

As a concept, natural structure and function is relatively well understood by ecologists both in precise terms, and as an abstract concept in those few cases where specific quantification is not confidently attainable.

Although man is a "part of nature" and a product of evolution, "natural" is generally defined as that condition in existence before the activities of man invoked perturbations which prevented the system from returning to its original state of equilibrium.

This definition is in no way intended to exclude man as a species from the natural order of things, but in this technological age, and in numer-

ous cases that occurred before industrialization, man has exceeded nature's homeostatic ability to respond to change. Any change induced by man which overtaxes the ability of nature to restore conditions to "natural" or "original" is an unacceptable perturbation.

Ecosystems themselves are dynamic, changing things. They undergo their own evolutionary changes, and these are "natural". The time scale that we are referring to for the purposes of this legislation, however, implies a relatively high degree of stability, when compared to the changes that occur over geological or evolutionary time. The latter time scales would encompass major evolutionary changes such as major successional changes, extinctions, appearances of new forms, major climatic changes, major physiograph changes and the like. Our time scale involves lesser adaptations and almost no evolutionary changes, and allows for the minor physical activities that accompany a shorter time frame, such as the peturbations caused by earthquakes, landslides, hurricanes, floods, volcanic activity, and the like. These changes are part of the general order of things: the natural law that has existed since the planet began to support life.

On that basis we could describe that ecosystem whose structure and function is "natural" as one whose systems are capable of preserving themselves at levels believed to have existed before irreversible perturbations caused by man's activities.

Such systems can be identified with substantial confidence by scientists.

In order to achieve the stated objective, the legislation declares two national goals. It is declared to be national goals to eliminate the discharge of pollutants into the waters of the United States by 1985 and to achieve 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 1981.

The Committee recognizes the problems associated with implementing a no-discharge policy. Although considerable views were heard on this subject by the Committee during hearings, it was apparent that very little hard evidence was available on which to make final irretrievable judgement on this matter. It was for this reason that the legislation includes section 315 providing for a study by the National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, of the effects of achieving or not achieving the 1981 and 1985 goals. At the conclusion of the study, with the appropriate information available, the Congress will be in a position to fully evaluate the implications of a no-discharge policy.

Subsection (a) further states it to be national policy that Federal financial assistance be provided to construct publicly-owned waste treatment works; that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each state; and 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. These policies are implemented in this legislation with major commitments of

Federal funds. The bill provides $18 billion for construction of waste treatment works for fiscal years 1973–1975; $600,000,000 for basic and advanced research, development and training; and almost $1,000,000,000 for State basin, and area-wide planning.

Subsection (b) states a policy of the Congress to recognize, preserve and protect the primary responsibilities and rights of States to prevent and abate pollution, to plan the development and use of land and water resources, and to consult with the Administrator in the exercise of his authority. It is the further policy to support and aid research relating to the prevention and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agency and municipalities.

It is also declared to be the policy of Congress that the President shall take action to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of water pollution in their waters and international waters and for the achievement of goals to at least the same extent as the United States does.

Subsection (d) states that except as otherwise expressly provided, the Administrator or the Environmental Protection Agency shall administer this Act.

A major finding of the Committee's oversight hearings was that the water pollution control program had been seriously impaired by the lack of continuity which had existed for years because of various reorganizations, transfers, restructuring, and staff manpower shortages. The consequences of these eventually resulted in a start-stop, halting arrangement, of operations and procedures and the inability of the agency to perform necessary duties and functions. It is earnestly hoped that there will be no more reorganizations or restructuring of the Federal agency responsible for the water pollution control program. The following chart shows the many changes in the leadership of this program.

1948—Division of Water Pollution Control established in the Department of Health, Education, and Welfare. Shortly thereafter, the division was transferred to the Bureau of State Services of the Public Health Service.

1954—Division of Water Pollution Control was reduced to a branch and was consolidated with other divisions into the new Division of Sanitary Engineering Services.

1959—Water Pollution Control Branch and other water pollution research and technical functions became the Division of Water Supply and Pollution Control.

1960—Division of Water Supply and Pollution Control was grouped with other divisions to form the environmental health segment of the Bureau of State Services, Public Health Service.

1961—Research and training grants responsibilities under the control of the National Institutes of Health were transferred to the Division of Water Supply and Pollution Control.

1965—Division of Water Supply and Pollution Control became the Federal Water Pollution Control Administration,

a separate administration within the Department of Health, Education, and Welfare.

1966—Federal Water Pollution Control Administration was transferred to the Department of the Interior in accordance with Reorganization Plan No. 2.

1967—Federal Water Pollution Control Administration was reorganized.

1968—Federal Water Pollution Control Administration was reorganized.

1970—Federal Water Pollution Control Administration became the Federal Water Quality Administration.

1970—Federal Water Quality Administration was transferred to the Environmental Protection Agency in accordance with Reorganization Plan No. 3, and became the Water Quality Office.

1971—Water Quality Office became the Office of Water Programs and with the Office of Air Programs was placed under the Assistant Administrator for Media Programs.

Subsection (e) provides for public participation in the development, revision and enforcement of any regulation, standard or effluent limitation established by the Administrator or any State. The subsection further directs the Administrator and the States to encourage and assist the public so that it may fully participate in the administrative process.

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

This provision implements the recommendations of the Subcommittee on Investigations and oversight which held extensive hearings on the subject of red tape in the Federal agencies and on their decision making processes.

Subsection (g) provides that in the implementation of this legislation, agencies responsible therefore shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

The Committee believes that there is little to be gained in stopping water pollution if the preventive actions cause more environmental damage than it eliminates. Therefore, the agencies are directed to consider all the ramifications of their actions.

Section 102—Comprehensive Program for Water Pollution Control

Section 3(a) of the existing Federal Water Pollution Control Act is the basic authority for the Environmental Protection Agency (EPA) to conduct comprehensive water quality management planning. This authority is continued in subsection (a) of section 102 of H.R. 11896, as reported.

Section 3(b) of the existing law provides for the inclusion of storage in Federal projects for the regulation of stream flow for water quality

control with Federal assumption if the costs of the benefits are widespread or national in scope. Section 3(b) further specifically provides that releases from Federal reservoirs may not be used as a substitute for the adequate treatment of wastes, or other methods of controlling pollution at the source. The Committee is satisfied that flow regulation will continue as a viable alternative in the foreseeable future even with further improvements in waste treatment technology and, therefore, has continued this authority in subsection (b) of section 102. An additional provision relating to storage for regulation of stream flow in hydroelectric power projects licensed by the Federal Power Commission has been included in subsection (b) of section 102.

Subsection (c) authorizes the Administrator to make grants to pay up to 50 percent of the administrative expenses of planning agencies for a 3-year period. These grants would be for the development of comprehensive water quality control and abatement plans for a basin or portions thereof. These plans must be developed in cooperation with and consistent with applicable area-wide waste management plans under section 208 and comprehensive basin plans under section 209, and any State plan under section 303(e). Any agency presently receiving a grant under the existing law would be eligible for grants for an additional 3 years.

Section 103—Interstate Cooperation and Uniform Laws

This section essentially restates the provisions of section 4 of the existing law. It establishes a policy for active Federal promotion of cooperative efforts among the States to promote pollution control. Such efforts include programs to promote model legislation and uniform laws and administration of laws in the States and to encourage interstate compacts and agreements for pollution control.

Section 104—Research, Investigations, Training and Information

This section basically rewrites and revises the research programs of section 5 of the existing law. Subsections (a) and (b) of section 104 grant the Administrator broad general authorities to participate in and encourage research, investigations, experiments, training, demonstrations, surveys and studies relating to the causes, effects, extent, prevention and abatement of pollution. The Administrator is directed to conduct public investigations concerning the pollution of any navigable waters; establish advisory committees to assist in the examination and evaluation of research progress and proposals; to avoid duplication of research; to establish, equip and maintain a water quality surveillance system for monitoring the quality of the navigable waters, ground waters, contiguous zones and the oceans; and to develop the tools and techniques for measuring the social and economic costs and benefits of activities regulated under this legislation. In order to carry out this directive, the Administrator is authorized to publish information which has been developed, make grants and enter into contracts, establish and maintain research fellowships, and take other relevant actions.

In subsection (c) the Administrator is authorized to 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 carrying out this effort, the Administrator is required to

coordinate his efforts with the Secretary of Health, Education, and Welfare so as to avoid duplication of effort.

Subsections (d), (e), (g), (h), (i), (k), and (l) are basically extensions of the existing law with relatively minor changes.

In regard to these subsections the following items should be noted: (1) The rewriting of subsection (e) does not increase the number of authorized laboratories at any one area of the country, (2) the report relating to training required by subsection (g)(4) is meant to be a new report, and not in lieu of previously authorized reports, (3) the reference to cooperation with the Coast Guard in subsection (i) is to indicate that the Committee recognizes the extremely important role of that agency in this program, and expects that the Administrator will work closely with the Coast Guard in a manner which would preclude any differences as to which agency is the lead agency, (4) the Administrator is granted a 6-month extension on the requirements of subsection (l)(1) and the reports required by subsection (l)(2) are in addition to and not in lieu of the report required in the existing law.

In subsection (j) the Committee retained the study authorized in section 5(j) of the existing law, but substituted the Coast Guard as the agency to conduct the program. Although the Administrator has been engaged in this type of study since its original authorization in 1970, the Committee believes that the Coast Guard has a longer history of involvement and a greater expertise and responsibility in matters relating to equipment to be installed on board a vessel. The Committee notes that all ongoing contracts and in-house work at EPA may continue under the authority of the savings provision contained in section 4 of the Federal Water Pollution Control Act Amendments of 1972. The assignment of this research work to the Coast Guard is clearly consistent with other requirements in the existing law that the Coast Guard promulgate regulations governing the design, construction, installation, and operation of any marine sanitation device on board vessels.

Subsection (m) authorizes a study of methods to deal with the disposal of various types of waste oils, including used engine, machine and cooling oils.

Subsection (n) continues the Administrator's authority to conduct studies of problems in the estuaries and estuarine zones, and from time to time submit reports of the studies. The Committee has given considerable attention to the National Estuarine Pollution Study Report prepared by EPA's predecessor agency, the Federal Water Pollution Control Agency, and expects to be kept closely informed on this subject.

Subsection (o) expands the Administrator's authority to conduct research on methods to reduce the total flow of sewage, including unnecessary water consumption.

Subsection (p) authorizes the Administrator, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, to research problems relating to pollution from agriculture.

Subsection (q)(1) authorizes the Administrator to make grants for demonstration programs for new and improved methods of preventing, reducing, storing, collecting, and treating sewage in rural and other areas where conventional sewage collection is impractical or where soil conditions or other factors preclude the use of septic tanks and drainage field systems.

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

Subsection (r) authorizes the Administrator to make grants to colleges and universities to conduct research in fresh water aquatic ecosystems. Comprehensive basic research on general problems of water quality is a necessity for the accumulation of a broad baseline of information on all important parameters. These funds are specifically authorized with the realization that to date competing priorities have mitigated against intensive effort in this area.

Subsection (s) authorizes the Administrator to make grants to institutions of higher education to conduct and report on interdisciplinary studies on the nature of river systems. No single grant in any fiscal year may exceed $1,000,000. The recipient institutions should be regionally located and be designated as "River Study Centers."

Subsection (t) provides that 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. A number of electric power utilities, including the Tennessee Valley Authority, have accumulated extensive experience in reducing and controlling the effects of such discharges, and it is intended that the Administrator shall call upon such organizations for cooperation and assistance in conducting such studies. Full consideration should be given to all alternative methods of controlling thermal discharges from the point of view of economic and technical feasibility as well as social and economic costs and benefits. The evaluation of these alternative control methods should not be made in isolation, but rather in relationship to their relative impact on other environmental factors such as air quality, land use, and effective use of natural resources. The studies should examine methods of maximizing benefits while minimizing adverse effects of thermal discharges, and should assist the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

The legislation provides for these studies because the Committee believes that the development and evaluation of this information is essential in order to develop a sound scientific, technical, and economic basis for proposing reasonable and workable regulation of thermal discharges. The Committee intends that the Administrator shall keep the Committee fully and currently informed of the progress of the studies prior to formulating any proposed regulations.

Subsection (u) authorizes appropriations of $100,000,000 for each of the fiscal years 1973 and 1974 for carrying out the provisions of section 104 other than for subsections (g), (p), and (r). There are additional authorizations for appropriations for subsection (g)(1) relating to the pilot training program for personnel to operate and maintain treatment plants in the amount of $7,500,000 for fiscal year 1973, subsection (g)(2) relating to forecasting employment needs in pollution control in the amount of $2,500,000 for fiscal year 1973, subsection (p) relating to agricultural pollution research in the amount of $10,000,000 for each of the fiscal years 1973 and 1974, and subsection (r)

relating to research in aquatic ecosystems in the amount of $15,000,000 for each of the fiscal years 1973 and 1974.

Section 105—Grants for Research and Development

This section continues and expands on the provisions of section 6 of the existing law.

The Administrator is authorized in subsections (a) and (c) of section 105 to continue programs for (1) assisting the development of projects to demonstrate new or improved methods of preventing and abating discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; (2) assisting the development of projects to demonstrate advanced waste treatment or water purification methods or new or improved methods of joint treatment systems for municipal and industrial wastes; and (3) research and demonstration projects for preventing pollution of waters by industry, including, but not limited to, treatment of industrial waste. This authority in existing law has been limited to performing these functions by grant or contract. Subsections (a) and (c) would now authorize the Administrator to conduct in-house demonstration projects of this type.

Subsection (b) authorizes the Administrator to undertake model river basin demonstration projects of advanced pollution treatment and environmental enhancement techniques to control pollution from all sources together with in-stream water quality improvement techniques. The Passaic River Basin is the perfect example of a river basin which deserves model basin treatment. The problem there results from a complete abuse of this vital natural resource. The severe pollution of the river and its tributaries thwarts the economy of the region and is a mounting and ever present threat to the safety and health of the residents of this region of New Jersey. The Committee urges the Administrator to give this river basin a high priority.

Subsection (d) gives specific emphasis to the study of management methods and technologies related to eliminating discharges into water, and to the study of the impact of specific discharges on receiving water quality. The last is a highly complex subject, but its thorough understanding is fundamental to an effective and sound water pollution control program.

Increased emphasis on demonstration projects is consistent with, and essential to, the increased requirements for technology in this bill. There is need for the demonstration of technology so that reports thereon can be widely distributed in order to inform dischargers subject to regulation that technology is available to meet the requirements of this legislation. This increased emphasis, further, is directed at a broad range of pollution sources and comprehensive approaches recognizing that an effective control program must be based on control of all sources ultimately, in a systematic and interrelated manner. For example, municipal pollution control requires control over sewered and non-sewered wastes, storm waters, and urban runoff. Municipal control must, in turn, be consistent with area and basin-wide control. Such comprehensive control will require a blend of control technologies, both new and conventional.

Subsection (e) authorizes demonstration projects for control of agricultural pollution and for rural sewage disposal systems.

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The bill provides in subsection (c) that no grant will be made under this section unless the Administrator determines that the project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method must have industrywide application.

It is further provided that no grant for subsections (a) or (c) may exceed 75 percent of the cost of the project. This is similar to existing law.

Subsection (h) authorizes appropriations of $70,000,000 for each of fiscal years 1973 and 1974; however, 10 percent of the funds actually appropriated in each fiscal year must be available only for the purposes of subsection (e) relating to agricultural and rural research and demonstration projects.

Section 106—Grants for Pollution Control Programs

Subsection (a) of section 106 authorizes appropriations in the amount of $60,000,000 for fiscal year 1973 and $75,000,000 for fiscal year 1974 for grants to States and to interstate agencies to carry out programs for prevention and abatement of pollution. Subsection (b) provides that allotments of such funds by the Administrator will be based on the extent of the pollution problem in the respective States.

Subsection (c) authorizes the Administrator to pay to the States and interstate agencies each fiscal year either (1) the allotment established under subsection (b), or (2) the reasonable costs of developing and carrying out a pollution program during that year, whichever amount is the lesser.

Subsection (d) establishes fiscal year 1971 as the base line for the maintenance of effort by a State or interstate agency. If a State or interstate agency reduces its spending below this amount, grants under this program will be discontinued.

Subsection (e) provides that grants will be made under this section on condition that (1) the State or interstate agency files with the Administrator within 120 days of enactment of this section a summary report of the current status of its program, including the criteria used by the State in determining priority of treatment works and any other additional information requested by the Administrator; (2) no federally assumed enforcement (section 309(a)(2)) is in effect; and (3) the State or interstate agency submits within 120 days after enactment of this section and before July of each year thereafter for the Administrator's approval its program for prevention and abatement of pollution.

Subsection (f) authorizes the Administrator to reallot moneys not paid.

Section 106 substantially increases the Federal encouragement and support of State programs authorized under section 7 of the existing law. The new section 106 recognizes the need for expanded and improved State (and interstate agency) participation in the water pollution control program to achieve the objectives set by this legislation. The Administrator is given power to review State programs to assure they will effectively promote the ends of this legislation and that they maintain at least the spending level of effort of their fiscal year 1971 program.

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In making allotments to the several States and interstate agencies "on the basis of the extent of the water pollution problem in the various States" the Administrator should recognize that "water pollution problems" include the prevention of water quality degradation as well as abatement of existing problems.

The State (or interstate agency) program submitted in compliance with the conditions of subsection (e)(3) is expected to describe the relationship between the various program elements required by other portions of this Act, such as: the basin plans (sec. 102), the areawide waste treatment management plans (sec. 208), the Comprehensive River Basin plans (sec. 209), and the State plan (sec. 303(e)). In administering this section, the Committee expects the Administrator to minimize, to the extent possible, the number and diversity of submissions by the States (and interstate agencies) required under this and other sections of the Act. At the same time, the State program should serve as a vehicle for development of a meaningful working relationship between the States (and interstate agencies) and the Federal Government. The use of areawide and basin plans as the keystone for much of the State and local water quality management efforts is required to assure effective and efficient use of limited State resources.

The Committee intends that State program grants may be used for any reasonable expenses in carrying out State responsibilities under this Act, including enforcement and permit programs.

Section 107—Area Acid and Other Mine Water Pollution Control Demonstrations

This section continues, with conforming language changes, the provisions of section 14 of the existing law. Specific provision is made that techniques utilizing sewage sludge and other municipal wastes are appropriate for abatement demonstration projects under this section, and the Committee intends these techniques will be explored and demonstrated.

The Committee expects that this program will assume added significance from the requirement to identify and develop procedures and methods for control of mine pollution sources as part of the comprehensive attack on all pollution sources. Mine pollution sources are responsible for much of the pollution of many of our rivers, particularly in Appalachia. The Committee believes that an aggressive program to develop practicable and economic methods to control this pollution is an important priority.

Subsection (d) authorizes appropriations in the amount of $15,000,000. This is the amount originally authorized for this purpose in Public Law 91-224 and does not constitute an additional authorization over and above that amount.

Section 108—Pollution Control in the Great Lakes

Subsections (a) through (c) of section 108 continues, with conforming language changes, the provisions of section 15 of the existing law.

Subsection (c) authorizes for appropriation $20,000,000. This is the amount originally authorized for this purpose in Public Law 91-224 and does not constitute an additional authorization over and above that amount.

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Subsection (d) requires the Secretary of the Army, acting through the Chief of Engineers, to design and develop a demonstration wastewater management program for the rehabilitation and environmental repair of Lake Erie. This would be in addition to, and not in lieu of, ongoing studies 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 Congress for approval.

There is a further requirement that the program be developed in cooperation with EPA, other interested Federal agencies, and the States and their political subdivisions.

This program would result in a plan which will set forth alternative systems for regional waste treatment management and which is designed to provide local and State governments with a range of choices as to the type of system to be used for the treatment of water. These alternative systems include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology.

Subsection (e) authorizes appropriations in the amount of $5,000,000 for the Secretary of the Army to carry out the Lake Erie program.

The Committee notes that the language utilized in subsection (d) is not the usual authorization for Corps of Engineers studies found in the River and Harbor Acts or the Flood Control Acts. This is an international change. It is the Committee's express intent that this study be expedited and not be delayed by red tape. For example, the Committee has no objection to the Chief of Engineers utilizing the Board of Engineers for Rivers and Harbors for advisory services, but does not want this report held up at the Board for 3 to 6 months waiting for formal action.

Section 109—Training Grants and Contracts

This section continues, with conforming language changes, the provisions of section 16 of the existing law. The Committee would stress the need for active prosecution of this program in light of a recent study by the General Accounting Office which concluded that the prevalence of poorly trained treatment works personnel is one of the major weaknesses in the national pollution control program.

Section 110—Application for Training Grant or Contract; Allocation of Grants or Contracts

This section continues, with conforming language changes, the provisions of section 17 of the existing law.

Section 111—Award of Scholarships

This section continues, with conforming language changes, the provisions of section 18 of the existing law.

Section 112—Definitions and Authorizations

This section continues, with conforming language changes, the provisions of section 19 of the existing law.

Subsection (c) of section 112 authorizes appropriations of $25,000,000 for each of fiscal years 1973 and 1974 to carry out sections 109 through 112 of this Act.

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Section 113—Alaska Village Demonstration Projects

This section continues, with conforming language changes, the provisions of section 20 of the existing law.

Subsection (d) of section 133 authorizes appropriations of $2,000,000 to carry out this section. The amount originally authorized for this purpose in Public Law 91-224 was $1,000,000, and the effect of subsection (d) is to raise that amount by an additional $1,000,000.

Section 114—Economic Growth Centers

Section 114 authorizes the Administrator to make a supplemental grant to economic growth centers (designated under section 143 of title 23, United States Code) in any case where the center receives a grant for construction of waste treatment works under this bill. The Administrator will determine in his discretion the percentage of the supplemental grant. There is authorized to be appropriated $5,000,000 to carry out the section.

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Section 201—Purpose

The purpose of this title is to establish the requirements and to provide the financial assistance needed for the expeditious development and implementation of the Nation's waste treatment plans and practices.

The Committee believes that applicants must in the future be required to examine a much broader range of alternatives for the treatment of pollutants than they have heretofore typically done. It expects the Administrator to provide leadership and to stimulate research to assure the development and application of new treatment techniques. In arriving at the best practicable waste treatment technology consideration must be given to its full environmental impact on water, land, and air and not simply to the impact on water quality. There may be no net gain to the Nation if we adopt a technology to improve water quality without recognizing its possible adverse effect on our land and air resources.

The term "best practicable waste treatment technology" covers a range of possible technologies. There are essentially three categories of alternatives available in selection of wastewater treatment and disposal techniques. These are (1) treatment and discharge to receiving waters, (2) treatment and reuse, and (3) spray-irrigation or other land disposal methods. No single treatment or disposal technique can be considered to be a panacea for all situations and selection of the best alternative can only be made after careful study.

Particular attention should be given to treatment and disposal techniques which recycle organic matter and nutrients within the ecological cycle.

In defining "best practicable waste treatment technology" for a given case, consideration must be given to new or improved treatment techniques which have been developed and are now considered to be ready for full-scale application. These include land disposal, use of pure oxygen in the activated sludge process, physical-chemical treatment as a replacement for biological treatment, phosphorus and nitro-

gen removal, in collection line treatment, and activated carbon absorption for removal of organics. Planners must also give consideration, however, to future use of new techniques that are now being developed and plan facilities to adapt to new techniques.

Testimony before the House Public Works Committee disclosed that some existing Federal funding programs specifically designed to combat domestic water pollution, are inadeqlate. These inadequacies are evidenced by the construction of oversized sewage treatment plants, the existence of sewage bypasses to public waterways *after* new treatment facilities have been constructed, and in general the inability to solve the clear water infiltration problems that are present in sewage collection systems throughout the country. If infiltration is not eliminated within these systems, vast sums of Federal, State and local monies could be wasted in trying to cope with the excess clear water at the sewage treatment facility.

On December 31, 1971, the Environmental Protection Agency issued broad outlines to deal with the infiltration problem to be followed in reviewing grant applications. The Committee has incorporated in subsection (d) not only a requirement that after July 1, 1973 the applicant for a grant for treatment works must satisfy the Administrator that no excessive infiltration exists but also has authorized grants for sewer evaluation studies to applicants to be financed from funds allotted to each State under Section 205 of this Title. There is presently no authority for EPA or any other Federal Agency to finance such studies. The terms and conditions for such grants, which could be for the full cost of a study will be prescribed by the Administrator in his regulations. Such a study may constitute one of the elements of construction as defined in this title.

The Administrator will be expected to take appropriate action to assure that applications for waste treatment works handled prior to July 1, 1973 give special attention to the infiltration problem to avoid a waste of public funds. Funds for sewer evaluation studies should be made available promptly.

Keeping in mind that the portion of the bill dealing with infiltration has been proposed primarily to solve the clear water infiltration problem and to eliminate the indiscriminate and wasteful use of monies in funding waste treatment works, care must be taken to insure against unnecessary studies and the over study of the infiltration problem. Therefore, fiscal prudence dictates that guidelines for the new funding program be established to insure that the desired results will be achieved.

It is explicitly stated in H.R. 11896 that funds will be made available for the evaluation of existing sewage collection systems. This technology can cover a very broad spectrum. Misinterpretation of "collection system evaluation" could result in the needless expenditure of funds without corresponding benefits. It is, therefore, imperative that the clear water infiltration problems to be solved through the method of system evaluation and rehabilitation be specifically defined and stated. A method of system evaluation is outlined in an EPA document entitled "Prevention and Correction of Excessive Infiltration and Inflow into Sewer Systems."

Many existing sewage collection systems need to be rehabilitated, particularly in cities with systems that were installed many years ago.

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The legislation requires infiltration problems in these systems be corrected so that facilities will be designed only to handle sewage which needs treatment.

Section 202—Federal Share

Subsection (a) of this section of the bill increases the Federal share of waste treatment projects from the existing maximum of 55 percent to a maximum of 75 percent. Localities receive this amount only if the State agrees to provide an additional 15 percent of the full costs for each project assisted in that State during the applicable fiscal year. The increased percentage of Federal participation is effective for any grant made from funds authorized after June 30, 1971, and any applicant, except for reimbursements, may request the increased percentage. The Committee believes that State grant participation in the water pollution control program is essential and should be encouraged since substantial financial participation helps assure their concern for the effectiveness of the overall program. If a State does not participate in cost sharing the Federal share would be 60%, which compares with 30% under existing law.

It is the intent of the Committee that the term "to pay" means the provision by the State, by any means (including loans), of funds, or the equivalent, sufficient to serve as the State matching share for all projects determined to be eligible by the Administrator under the provisions of this Act.

Some State laws now require the States and municipalities together to pay more than the 25 per centum stipulated in this title. This will necessitate a change in their laws. However, the mandatory payment of 75% by the Federal Government to the States is effective immediately. When their laws are amended the Committee directs that the difference between the 25% and the amount required under their present laws be returned to the States and municipalities. The Committee views this as essentially an administrative matter which can be handled by the Administrator in a manner that will not delay the program pending the enactment of State amendatory legislation.

Subsection (b) of this section provides that a grant for a project approved after January 1, 1971, and before July 1, 1971, where the actual erection, building or construction of the treatment works did not begin before July 1, 1971, shall, on request, be increased to the percentages contained in subsection (a), i.e. 60–75 per cent. This increased amount shall be paid from allocations to the State without regard to the fiscal year for which the funds were authorized. This increased amount, however, shall be paid only for a project if (1) a sewage treatment collection system part of the total waste treatment system for which the grant was approved is under construction or is to be constructed for use with the treatment works and the cost of such sewage collection system is more than the cost of the treatment works and (2) the State water pollution control agency certifies that the available ground water is insufficient to meet future requirements for water supply unless after treatment, effluent from the treatment works are injected to refresh the ground water supply.

An example of a situation where this problem has arisen is the Southwest Sewer District in Suffolk County, Long Island, New York. Testimony by local representatives before the Committee revealed that

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substantial spread-out municipal development and salt water percolation problems caused by an unusually low water table have made the installation of collector sewers more expensive ($250 million est.) than the rest of the treatment system for the Southwest Sewer District combined ($248 million est.).

In addition, Long Island as a whole faces a severe drinking water shortage which may force importation of water by the year 2020. Loss of valuable fresh water through use of a sewer outfall (the usual and least expensive method for discharging the effluents) may accelerate this problem and lead to even greater salt water intrusion which further contaminates the remaining fresh water. The result is that the treatment would have to be upgraded to the point where the effluent could be recharged into the drinking water. This would involve substantial modification of the treatment works and an amount at least as much as the original outlay of almost $500 million.

This subsection is designed to provide increased assistance to this project and similar projects faced with the same problems.

Section 203—Plans, Specifications, Estimates and Payments

One of the major features of this bill is the authority contained in this section which authorizes the Administrator to commit the Federal Government to the payment of its proportional contribution to the construction of treatment works at the time he approves the plans, specifications and estimates submitted to him by each applicant. This is in contrast to existing law wherein such a contractual obligation cannot occur.

The Committee believes that contract authority is essential if the Federal Government is to carry out its responsibilities in meeting the needs of the Nation for waste treatment works in a timely manner. This authority will permit the States and municipalities to plan their construction programs with assurance that once their plans, specifications, and estimates are approved, construction can proceed in an orderly fashion.

An appropriation of funds will be required annually to the Administrator to make progress payments to the recipients of grants for the Federal share of the costs of construction as they are earned by contractors on projects under construction.

In addition, the definition of construction contained in section 212 permits each element included in the construction of a treatment work to be approved as a proposed project, e.g. preliminary planning, engineering, architectural investigations, etc. This definition of a project together with the authority for the Administrator to make payments as construction progresses should assist the States and municipalities in expediting the planning and initiation of waste treatment works and also relieve the financial pressure as to the time when the funds for their share of project costs must be made available.

Section 204—Grant Conditions

This section continues, with appropriate modifications, the requirement that projects be included in applicable areawide plans under section 208, conform to any applicable State plan under section 303(e) that the applicant agree to pay the remaining non-Federal costs, and provide assurance of proper operation and maintenance. An important

clarification in the existing law is the specific requirement that the applicant employ trained operating and management personnel. Failure to do so in the past has been identified by GAO as one of the major weaknesses in the national water pollution control program. Also a provision has been included that no written specification for bids in connection with treatment works shall include proprietary, exclusionary, or discriminatory requirements, other than those based upon performance, except under limited and specifically defined circumstances.

The addition of specific language in the bill concerning provision of reserve capacity in waste treatment works is intended to emphasize that this planning factor must be given through consideration by both the applicant and the Administrator. The Administrator as well as the States and localities are given the authority and responsibility to weigh the comparable costs of providing reserve capacity either immediately or at some future point in time.

A major new condition for receiving a grant relates to the establishment of user charges. This section specifically provides that the Administrator shall not approve any grant for publicly owned treatment works, after June 30, 1973 unless the applicant has adopted or will adopt a system of user charges to assure that each recipient of waste treatment services within his jurisdiction, as determined by Administrator, will pay its proportionate share of operation, maintenance (including replacement) and expansion costs. The applicant's jurisdiction means his entire service area.

The Committee believes it is essential to the successful operation by public agencies that a system of fair and equitable user charges be established. The Committee recognizes that differing circumstances and conditions in local areas may call for especially designed systems and has therefore proposed that the Administrator promulgate general criteria and that such general criteria allow for variations to meet local conditions. This section contains standards the Committee believes should be taken into account by the Administrator; foremost among these is the underlying objective of achieving a local system that is self-sufficient.

In connection with industrial users of publicly owned systems, the Committee desired to establish within the user charge system an arrangement whereby industrial users would pay charges sufficient to bear their fair portion of all costs including the share of Federal contributions for capital construction attributable to that part of the cost of constructed facilities attributable to use by industrial sources. It is the Committee's view that it is inappropriate in a large Federal grant program providing a high percentage of construction funds to subsidize industrial users from funds provided by the taxpayers at large. Accordingly, the bill imposes an obligation on the part of publicly owned systems to incorporate into their user charge schedule a component to recover, without interest, that proportion of the total Federal grant to the community for construction purposes attributable to industrial users The committee recognizes that there will be some administrative difficulties involved in establishing classes of industrial users and has left to the local system the obligation to set up an effective and equitable system, subject to the approval of the Administrator,

inasmuch as the establishment of such a system is a precondition to Federal grants.

Since one of the objectives of the legislation is the development of self-sufficiency among local systems, the Committee has recommended that the revenues obtained by user charges covering the Federal contribution attributable to the use of the local system by industrial users remain with the local system. The Committee believes, however, that these funds should be used by the local system only for those purposes related directly or indirectly, to the maintenance, operation and development of the system. The Committee strongly opposes rebates to industrial users or any other form of a special treatment which would thwart the objective of the Committee stated above to prohibit Federal subsidies to industrial users.

Among the purposes for which the Committee believes the revenues so received might be used are the following: (1) construction, operation, maintenance, repair and replacement of sewage systems and for the repayment of principal and interest for indebtedness incurred therefore; (2) support for monitoring the quantity and quality of effluents to the agency's system for industrial, commercial, and residential sources; (3) monitoring of receiving water to ensure maintenance of adopted water quality standards; (4) water pollution control and abatement planning, particularly with respect to developing the interrelationships between such planning and water resources management, air resources management, solid waste management, and land use planning; (5) establish, operate, and maintain, where feasible, central facilities for the storage and analysis of systemwide operating data to promote the most efficient use and operation of the agency's interceptors, regulating stations, pump stations, and treatment facilities; (6) enhancement of agency-owned property to provide community multi-use facilities over and above the basic function of controlling and abating water pollution; and (7) agency personnel training programs.

The following are examples of items which the Committee believes should not be financed by such revenues: (1) facilities for the pretreatment and monitoring of industrial waste in order to meet the agency's reserve system requirements; (2) reductions in user charges for specific categories of users, especially industrial users; and (3) payments of agency bonds or other long-term indebtedness outstanding for construction financed under the law as it heretofore has existed.

Finally, this section provides that approval of a grant to an interstate compact agency would satisfy any other requirement for congressional authorization.

Section 205—Allotment

There are two major changes in the existing law which result from the provisions contained in this section: (1) the formula for the allotment of funds among the States and (2) the handling of reallotment of funds not obligated in a given fiscal year.

This section replaces the formula contained in the existing law which allots grant funds among the States largely on the basis of population, with a formula which uses the actual waste treatment needs of each State for this purpose. Likewise, funds not obligated by a given State

would be reallocated on the basis of need. This needs formula is a sound basis for allotting funds since our experience to date clearly demonstrates that there is no necessary correlation between the financial assistance needed for waste treatment works in a given State and its population.

The Committee is fully aware that at the present time there is no satisfactory estimate of the total funds required by the States for the construction of publicly owned treatment works. Hearings before the Committee revealed serious deficiencies in the $12 billion estimate for the 3 fiscal years 1972–1974 in the report printed as Senate Document No. 92–23 entitled "The Cost of Clean Water." However, this report does provide some measure of the relative needs of the various States and in the absence of any better measure has been incorporated in the bill for the determination of the State allotments for the fiscal years 1973 and 1974.

The distribution of funds for the fiscal years 1975 and 1976 are to be based on the report required by section 516 and the first report will be submitted to Congress for its approval no later than February 10, 1973.

This report requires the Administrator and the States including the State water pollution control agencies and other water pollution control planning agencies to furnish detailed estimates, biennially revised of the cost of construction of all needed publicly owned treatment works in each of the States. Because of the importance of this report in assuring the proper allotment of grant funds to the areas of greatest need, the Committee expects the Administrator and the State to take whatever steps are necessary to improve the quality of future needs estimates. This report should also include information on the requirements for sewer collection systems since grants for this purpose are now authorized by this title.

In the case of the reallotment of funds not obligated by a State the Committee has incorporated into the law some of the features of the allotment and reallotment procedures successfully used in the Federal Aid Highway program. Beginning with the fiscal year 1974 all sums authorized to be appropriated shall be allotted among the States not later than the January immediately preceding the beginning of the fiscal year for which they are authorized. Sums allotted to a State shall be available for obligation on and after the date of the allotment and shall continue available for obligation in such State for a period of 1 year after the year for which they are authorized. This will provide a period of 2½ years for a State to obligate its allotment. Any funds not so obligated by a State are to be reallotted by the Administrator generally on the basis of the ratio used in making the last allotment.

The use of the word "generally" is intended to provide the Administrator with some discretion where it is obvious that certain States will be unable to use their allotment. Also with a periodic reallotment of unused allotments, the Committee expects each of the authorizations provided in section 207 to be ultimately used and has accordingly provided indefinite appropriation authority to permit the payment of the obligations regardless of the year in which this may occur. The Committee has also included language to make it clear that reallot-

ments to a State are to be in addition to any funds otherwise allotted to the State. For example, reallotments made in 1975 from a 1973 allotment could not be used to reduce its new allotment for 1975.

Section 206—Reimbursement and advanced construction

This section provides the authority and establishes the conditions for reimbursing States, municipalities, intermunicipal agencies, or interstate agencies for any publicly owned treatment works constructed by them for which the full Federal contribution to which they were entitled was not received.

The Committee intends that the Federal Government provide sufficient and timely reimbursement of funds to States and localities which committed their own funds to prefinance a portion of the Federal share of the eligible cost of construction of waste treatment facilities. This is a matter of equity since by such commitments the national program to clean up the Nation's waters has been expedited.

Projects initiated between 1956 and 1966 will not be eligible unless it was constructed with or eligible for Federal financial assistance, had been approved by the State water pollution control agency and the Administrator has made a determination that it met the requirements of the Federal Water Pollution Control Act as in effect immediately prior to the 1972 amendments or which had received less than 30% of the cost of the project. Payments with respect to any project which meets the requirements of the subsection may not exceed the difference between the amount of any Federal assistance already received for such project under section 8 of the law in effect at that time, and 30% of the costs of construction. An authorization of $750 million is provided in subsection (c) to make these payments.

Projects initiated after June 30, 1966, but before June 30, 1971, shall be eligible for retroactive Federal assistance if they had been approved by the State water pollution agency and the Administrator finds an application was made prior to initiation of construction which would have been eligible for Federal contribution had adequate funds been available. Reimbursement will cover payment of State or local funds used or committed for such projects prior to July 1, 1974 in place of the Federal funds and the project shall be eligible for retroactive Federal assistance in accordance with provisions of section 8 of the Federal Water Pollution Control Act applicable at the time. The reimbursement provision includes projects constructed without Federal funds or with a lesser percentage of the cost of construction than that authorized in section 8 of the then existing Federal Water Pollution Control Act. Moreover, until July 1, 1974, a State may change its laws and provide for a larger State contribution than that provided at the time the Administrator approved a project thereby entitling it to a higher percentage of reimbursement.

An appropriation authorization of 2 billion dollars is provided in subsection (c) for payment of these reimbursements.

Section 206 (d) provides that public agencies may proceed with projects during a fiscal year after a State's allotment has been obligated. The Administrator may approve a project for construction and commit funds under section 203 to the extent that there are grant authorizations available for subsequent fiscal years. It is the

intent of this section that projects approved to proceed without Federal funds will be fully covered by a State's expected allotment.

Section 207—Authorizations

This section provides the appropriation authorizations to continue grants for the construction of publicly owned waste treatment works through June 30, 1975 in the amounts shown below:

Fiscal year	
1973	$5,000,000,000
1974	6,000,000,000
1975	7,000,000,000
Total	18,000,000,000

The language of section 203(a) provides that the funds authorized for the fiscal years 1973, 1974, and 1975 shall be available for contractual obligation upon their allotment to the States.

Appropriation authority for 1972 in the amount of $1,350,000,000 has already been authorized and section 3(b) of this bill includes an authorization of $350,000,000 which will be administered on the basis of the same requirements and conditions as prevailed prior to the enactment of this bill.

Section 208—Areawide waste treatment management

This section of the bill places emphasis on what the Committee considers the most important aspect of a water pollution control strategy. The planning process authorized in this section when implemented will provide an identification of the problems, a strategy of solution, implementation of the strategy and evaluation of its effectiveness in accomplishing the desired objectives. The planning process will provide a management concept to coordinate the many separate requirements of this legislation in an effective attack for restoring our Nation's waters. It is intended that the plans called for in this section be developed by existing regional organizations, wherever possible, in order to minimize creation of new agencies.

This Committee has had a long experience with past planning efforts and feels strongly that the present EPA planning requirements as further amplified with certain modifications by this legislation will assure that measurable progress will be made both with improved water quality and enhancement of inter-related areas of the environment. The plans developed are to be utilized by EPA and the States in managing their water pollution control programs. If these plans are not utilized effectively we will continue in our fragmented approach.

The planning process envisioned by the Committee is made up of several significant steps.

1. The Administrator will issue guidelines which will be published as regulations for the purpose of designating urban industrial and other areas confronted with serious water quality control problems.

2. The Governor of each state will designate areas requiring areawide planning and appoint a single representative planning agency for each area and may subsequently designate additional areas. These designations would be done in consultation with all local governments

having jurisdiction in a specific area. In cases where an area covers more than one State the plans developed by the planning organization must be concurred in by the Governors concerned unless the authority is vested exclusively in an interstate agency by the concerned States. All designated areas require the approval of the Administrator.

3. Once the areawide planning organizations have been designated, these organizations have 2 years in which to have in operation a continuing areawide waste treatment management planning process.

4. The content of plans developed by the planning organizations must include comprehensive information regarding the water quality control program for the area including the anticipated construction for 20 years required to meet municipal and industrial waste treatment needs, the establishment of construction priorities, the establishment of regulatory programs, the designation of agencies required to manage the program, and other items enumerated in section (b).

5. As a part of the planning process and at the time a plan is submitted to the Administrator for his approval, the Governor in consultation with the planning agency shall designate and submit for the Administration's approval one or more waste treatment management agencies capable of implementing the strategies for pollution control within the planning areas. This agency (or agencies) will be designated as the entity which can receive and spend the Federal grants for the construction of publicly owned waste treatment facilities. All such agencies must meet the requirements enumerated in subsection (c).

The areawide plans will require coordination with the comprehensive water pollution control program in Section 102; the water quality implementation plan in section 303(e); and the basin planning in section 209.

The Committee notes that in some States water resource development agencies are responsible for allocation of stream flow and are required to give full consideration to the effects on water quality. To avoid duplication, the Committee believes that a State which has an approved program for the handling of permits under section 402, and which has a program for water resource allocation, should continue to exercise the primary responsibility in both of these areas and thus provide a balanced management control system.

6. After the first plan for an area has been accepted by EPA, the Governor will thereafter, as required, annually certify revisions in conformance with basin plans, and provide an evaluation as to the effectiveness of the plan to the Administrator.

The Committee is aware that to develop soundly conceived areawide plans, the planning agencies must be adequately financed. With this in mind, an authorization of $100 million has been provided for the fiscal year 1973 and $150 million for fiscal year 1974 for the exclusive use of these planning agncies. For each of the fiscal years 1973, 1974 and 1975 the Administrator shall make 100% grants to those agencies for the cost of developing and operating a continuing waste treatment management process. For fiscal years thereafter the grant may not exceed 75%.

In addition to grants to planning agencies, specific authority is included for the Administrator to provide such agencies on a non-re-

imbursable basis with consulting services and technical assistance. The Secretary of the Army also is authorized through the Chief of Engineers and in cooperation with the Administrator to assist planning agencies in developing and operating a continuing management process. The Secretary of the Army is provided an authorization of $50 million for each of the fiscal years 1973 and 1974 for this purpose.

Any grant or technical assistance under this section must be on the request of the Governor or the designated planning agency.

Section 209—Basin planning

The time has long passed when this Nation can afford to consider each problem on an ad hoc basis. We can no longer act as if one environmental issue is not related to any other; after all, the pretense that industrial growth is unrelated to environmental quality has brought us to where we are today. Even an issue so pressing as water *quality* cannot be considered or resolved without concurrent consideration of water *quantity* problems. The Committee recognizes that comprehensive planning programs have been under way for the past 50 years and that they are now under the aegis of the Water Resources Council.

The Environmental Protection Agency and the Corps of Engineers, along with all other Federal agencies, participate in the activities of the Council and follow the Council's directions with respect to comprehensive planning. In its statement of July 27, 1970, "Water and Related Land Resources Planning," the Council provides for development of regional and river basin plans (Level B) in cooperation with State and local interests—such planning considers both quantity and quality problems, Federal and non-Federal alteratives in solving those problems, and is focused on the next 15 to 25 years. A level (B) plan for a basin indentifies each water resource project and each water quality program that should be authorized and implemented to attain the water quantity and water quality objectives established for the river basin plan. Only through such a rational, comprehensive planning process can we provide a program to cope, on a sound priority basis, with our water quality problems.

The Committee in this section is directing the President to prepare Level B plans which are to be accomplished for all areas of the Nation by 1980 through the Water Resources Council. Priority for development of such plans is to be given to areas designated by Governors as being most critical. The Committee also notes that notwithstanding the importance of these studies to the sound development of our Nation's water resources, practically no comprehensive river basin plans have been completed since the establishing of the Water Resources Council in 1965 due largely to inadequate funding and the unwillingness of anyone to assume the responsibility for the timely initiation and completion of these studies. To insure their proper funding and management in the future, the bill provides a $200 million authorization to the Council. While the studies would be managed by the Council in accord with its July 1970 statement, the bulk of the funds authorized would be transferred to and be utilized by EPA, the Corps, and others in the actual conduct of the studies.

The bill provides for annual reports to be made on the progress of these Level B plans. History has shown that insufficient attention has

been paid to the completion of comprehensive plans; this must be avoided. The Committee desires that the first report, due January 1, 1973, contain a listing of all studies to be accomplished, including a schedule for completion of each of the studies. The Council's statement indicates that regional and river basin plans should be generally completed within 3 years.

The Council should provide for appropriate Federal and non-Federal involvement in the development of plans essential to sound investment of resources available to meet our water quality problems. The Committee recognizes that water quality investment must be made as expeditiously as possible and does not wish to hinder such investment. Therefore, it is anticipated that investments will be made concurrent with the planning effort in some areas. The goal remains to have planning precede investment and to have all plans completed by 1980.

Section 210—Annual survey

The Committee is concerned over the reported failure of waste treatment works to be properly maintained and operated with qualified personnel after they are constructed. Such occurrences result in a waste of public resources both Federal and non-Federal. Appropriate action should be taken by the Administrator to see that this situation is corrected. For this reason the Committee has included a provision in this section to require the Administrator to conduct an annual survey of the operation and maintenance of publicly owned treatment works and to include the results of his survey in his annual report to the Congress.

Section 210—Definitions

This section contains definitions of the following terms as used in Title III: "Construction", "treatment works", "replacement" and "industrial user".

"Construction" in this bill is a defined term consisting of a number of elements any one of which may be considered a project eligible for a grant from the State allotment under section 205. For example, a grant could be made for the sewer infiltration studies authorized in section 201(d), preliminary planning to determine the feasibility of treatment works, surveys, and any of the other elements enumerated in the definition.

The term "treatment works" has been substantially broadened as compared with the definition in section 23 of the existing Federal Water Pollution Control Act. For example, combined storm and sanitary sewer lines, sewage collection systems and lands that will be an integral part of a treatment process have been added to the defined term as well as any devices and systems used in "recycling and reclamation" of municipal sewage or industrial waste of a liquid nature.

It is the intention of the Committee that as an alternative to, or complement to, a central treatment system (with sewer lines and a treatment plant), a rural community could decide to have a system with a central septic or collecting tank serving a cluster of homes, which system would be eligible for Federal assistance.

Under this type of system, the unit of government would own the collecting facilities and the central tanks and would be responsible

for the proper functioning of the system, including design, installation, maintenance, and replacement. This does not include connections to the publicly owned collecting facilities by households and others. The system would be required to meet any state requirements on sub-surface waste disposal systems, and the community would have to make a commitment for future maintenance and operation. The unit of government would have easements from the landowners for the site and access thereto. Eligible costs would include engineering for proper location and construction, all improvements, and all equipment necessary for installation and proper maintenance of the system, including disposal of residual sludge.

Section 211—Sewage collection system

This section provides authority for the Administrator to make grants for sewage collection systems in an existing community when necessary to the effective and economic operation of its waste treatment system. Collection systems are now included for the first time in the term "treatment works" and are eligible to receive grants from the state allotments under 205 and under the same terms and conditions as any other construction grant made under the Federal Water Pollution Control Act Amendments of 1972.

The Committee received testimony which clearly indicated that one of the reasons for delays in initiating construction of waste treatment facilities was due to the inability of public agencies to arrange for the financing of collection systems. Until EPA is assured that a satisfactory collection system will be available when the plant is finished, no grant can be finalized.

The Committee is aware that some Federal agencies now have the authority to assist communities in financing collection systems. These include the Farmer's Home Administration which is limited to serving communities of 5,500 or less; the Economic Development Administration which operates only in areas designated for special economic assistance and the Department of Housing and Urban Development which has limited funds and has therefore accorded a low priority to rehabilitation of sewer collection systems. Frequently a long delay has occurred between the approval by EPA of a grant for a sewage treatment plant and the approval by HUD of a collection system grant. This has resulted in increased construction costs which in turn has created problems with the communities in arranging their local financing.

Divided responsibilities for any program should be avoided whereever possible. The Committee believes that by giving EPA the full responsibility for making a decision involving a community requiring both financed assistance for the construction of a waste treatment plant and a collection system, the national water pollution control program will be expedited with a resulting saving in public funds and the time of public officials who have to deal with two agencies.

Sewer lines financed under this authority are to be limited to the main lines constructed by the public agency and does not include the connection to such lines by households and others. The authority to assist in the financing of collection systems also covers their major rehabilitation which can often be accomplished at a fraction of the cost of building a treatment plant or by adding to its capacity. Hear-

ings before the Committee discloses situations where sewage treatment plants had been built (or proposed) which were larger than required due to the volume of clear water infiltrating into the collection system. The rehabilitation of the collection system would have avoided this situation. The authority contained in Section 201 to finance sewer evaluation studies and the requirement that the applicant as a condition of receiving a grant, satisfy the Administrator that there is not excessive infiltration should prevent this situation from occurring in the future.

The Committee does not intend grants to be made for ordinary repairs and maintenance of collection systems. This should continue to be the responsibility of the community. The Administrator by regulation should specify the items and the circumstances under which grants will be made for major rehabilitation and to take whatever steps appear appropriate to advise the communities of their responsibility for adequately maintaining sewer collection systems.

The authority provided in this section covers only communities in existence on the date of the enactment of this bill. It is the Committee's intent that sewage collection systems for new communities, new subdivisions or newly developed urban areas, be addressed in the planning of such areas and be included as a part of the development costs of the new construction in these areas. They are not to be covered under the construction grant program.

TITLE III—STANDARDS AND ENFORCEMENT

Section 301—Effluent limitations

Subsection (a) of section 301 establishes that any discharge of a pollutant not in compliance with sections 301, 302, 306, 307, 318, 402, and 404 is unlawful. Any discharge of a pollutant without a permit issued by the Administrator under section 318, or by the Administrator or the State under section 402 or by the Secretary of the Army under section 404 is unlawful. Any discharge of a pollutant not in compliance with the conditions or limitations of such a permit is also unlawful. By the provisions of this legislation, such unlawful discharges can be proceeded against by the Administrator under section 309, or by the State under State law if the Administrator has authorized the State to issue permits pursuant to subsection (a)(5) of section 402(a)(5) or if the Administrator has approved the State permit program pursuant to subsection (b) of section 402(b).

Subsection (b) of section 301 establishes a technological basis for the determination of effluent limitations for any discharge of pollutants provided that such limitations, at a minimum, are, when applied to all point sources, adequate to meet existing or new water quality standards as provided under section 303. Subsection (b) requires that all point sources of discharge of pollutants, other than publicly owned treatment works, achieve not later than January 1, 1976, effluent limitations requiring the use of the best practicable control technology currently available. Publicly owned treatment works in existence on January 1, 1976, or those approved for construction grants prior to June 30, 1974, must meet effluent limitations based upon secondary treatment as defined by the Administrator.

It has been argued before the Committee that privately owned point sources should not be held to a strict standard than publicly owned treatment works which are required to meet secondary treatment or the equivalent. This argument was rejected by the Committee. Secondary treatment as considered in the context of a publicly owned treatment works is generally concerned with suspended solids and biologically degradable, oxygen demanding materials (BOD). Such a standard in the minds of some, if applied to effluents containing materials other than suspended solids and BOD, would be an empty standard. Best practicable control technology currently available might mean "secondary treatment" for some effluents but it is not a synonym for secondary treatment.

By the term "control technology" the Committee means the treatment facilities at the end of a manufacturing, agricultural, or other process rather than control technology within the manufacturing process itself.

By the term "best practicable", the Committee means that all factors set forth in Section 304(b)(1)(B) be taken into consideration. The determination of the best practical control technology currently available is not to be governed by the existing quality of the receiving waters.

By the term "currently available", the Committee means a control technology, which, by demonstration projects, pilot plants, and general use, has demonstrated a reasonable level of engineering and economic confidence in the viability of the process at the time of commencement of actual construction of the control facilities.

It is the intention of the Committee that the requirements of section 301(b)(1) (A) and (B) be met by phased compliance between the date of enactment of this Act and January 1, 1976, so that all point sources will be in full compliance no later than January 1, 1976, except as any extension of time for compliance may be made in accordance with section 301(b)(3).

Subsection (b)(1)(C) of section 301 requires that any more stringent limitation than that established under section 301(b)(1) (A) and (B), including any necessary to meet water quality standards, treatment standards, or schedules of compliance established pursuant to any other State or Federal law or regulation or any required to implement any applicable water quality standards established pursuant to section 303 of this Act shall be met by January 1, 1976. The Committee intends that the water quality standards established pursuant to subsection (c) of section 10 of the existing Federal Water Pollution Control Act be complied with prior to January 1, 1976, in accordance with the implementation plans that are parts of such standards, or any revision of these standards made pursuant to section 303 of this Act, and that there be appropriate phased compliance with revised or new standards adopted pursuant to section 303(c) of this Act, not later than January 1, 1976.

Even though section 301(b)(1) (A) and (B) requires the setting of effluent limitations consistent with best practicable control technology currently available, the Committee intends that if the sum of the discharges from point sources meeting such effluent limitations would preclude the meeting of water quality standards in existence on

the date of enactment of the 1972 Amendments, or those promulgated pursuant to section 303, new and more stringent effluent limitations would have to be established consistent with such water quality standards.

Subsection (b)(3) of section 301 authorizes the Administrator to extend the January 1, 1976, requirements under subsection (b)(1)(A) and (B) for a point source for up to two years except that no extension or extensions of such date shall exceed a total of two years. The Committee expects that such extensions will be given if it is clearly demonstrated after public hearings that there are either physical or legal impediments to the completion of the required construction. The Committee recognizes that certain point sources may be in the process of being modified pursuant to an implementation plan. Diligent adherence to the requirement of the implementation plan is recognized in this section as being a good and sufficient reason for granting a reasonable extension provided that such implementation plan has requirements which have been met to date or for which there is good reason for their not being met and they are not inconsistent with the January 1, 1976, requirement.

If an extension is given by the Administrator, it can include a waiver for the same period of any applicable water quality standard. Such a waiver shall be effective only for the point source to which it applies.

The Committee recognizes that extensive testimony was received during the oversight and legislative hearings that nonpoint sources of pollutants could and would, in many cases, preclude the meeting of water quality standards. The Committee considered this testimony but it does not consider this to be an acceptable excuse for point sources not meeting their individual requirements.

Subsection (b)(2)(A) of section 301 provides that all point sources, other than publicly owned treatment works, shall by January 1, 1981, achieve effluent limitations which require the elimination of the discharge of pollutants or if that is not reasonable, limitations consistent with the best available demonstrated technology. This will be a requirement for January 1, 1981, if after the National Academy of Sciences' report required by section 315, which is to be submitted two years after the date of enactment of this Act, Congress by future action implements the January 1, 1981, requirement.

Effluent limitations based upon the best available demonstrated technology will be applied in lieu of the elimination of discharge of pollutants if the State or the Administrator, as appropriate, finds that compliance with the January 1, 1981, standard of no discharge is not obtainable at a reasonable cost. This determination is to be made by the State or the Administrator, as appropriate, in accordance with the factors to be specified by the Administrator pursuant to subsection (b)(2)(B) of section 304.

When the term "best available demonstrated technology" is used, the Commitee intends that this shall apply to the totality of the point source and the plant processes behind the point source. By this, it is meant in contrast to the term "best practicable control technology currently available", that the total plant is being considered and that "best available demonstrated technology" does not apply solely to the control techniques used at the actual discharge of the point source.

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This is a basic difference between the best available demonstrated technology in the January 1, 1981, requirement and the best practicable control technology currently available in the January 1, 1976, requirement.

By the term "best available demonstrated technology", the Committee means those plant processes and control technology which, at the pilot plant, semi-works, or other level, has demonstrated both technological performance and economic viability at a level sufficient to reasonably justify the making of investments in such new facilities. This term applies to those processes or control techniques which are the best for a specific point source.

The Committee received extensive testimony on the fact that the difference in the cost of 100 percent elimination of pollutants as compared to the cost of removal of 97–99 percent of the pollutants in an effluent can far exceed any reasonable benefit to be achieved. In most cases, the cost of removal of the last few percentage points increases expotentially. This is the basic reason for the provision for the substitution of best available demonstrated technology for the elimination of the discharge of pollutants if such substitution is consistent with the enumerated factors, and the cost of complete elimination of pollutants is unreasonable. The Committee expects that such substitution would be based upon a strict review of the factors and that such substitution would be granted by the State or Administrator, as appropriate, only when the balance of evidence is definitely weighted on the side of such substitution.

Subsection (b)(2)(B) of section 301 incorporates the requirement of section (d)(2)(A) that not later than January 1, 1971, all publicly owned waste treatment works shall provide for application of the best practicable waste treatment technology. This requirement is not affected by the National Academy of Sciences study which is required by section 315.

Subsection (e) of section 301 makes it unlawful to discharge any radiological, chemical, biological warfare agent, or a high-level radioactive waste into the navigable waters. By this the Committee means that no permits are to be issued by either a State or the Administrator for the discharge into the navigable waters of such agent or waste. For purposes of this section, "high-level radioactive wastes" include but are not limited to the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

Subsection (f) of section 301 provides a statutory minimum useful life for any point source which is constructed or modified to meet effluent limitations based upon the best available technology at such time of such construction or modification. In so providing, the Committee recognizes the fact that industrial managers must be able to plan for some useful life before they can approve the modification or construction of any point source. The Committee recognizes that decisions on construction or modification of point sources must be made on the knowledge that such facilities will have a reasonably predictable useful life. Thus, subsection (f) provides that there shall be a restric-

tion against the imposition of any more stringent effluent limitation for such modified new point source during a twelve-year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility. This restriction applies, however, only to a point source the construction or modification of which is begun after the date of enactment of this legislation and before the end of one year after the date of submission of the National Academy of Sciences' report. If the decision is made to write off the entire cost of such modification or construction in the minimum five-year period, a more stringent effluent limitation could be imposed, at that time, under this Act. If, however, the fast writeoff provision is not fully utilized, no more stringent effluent limitation could be imposed until the end of a 12-year period. If the write-off schedule is changed during the first four years of the 5-year write-off period, the facility would still be exempt from more stringent effluent limitations for the statutory twelve year period.

Section 302—Water Quality Related Effluent Limitations

This section provides authority to supplement any effluent limitations set pursuant to subsection (b)(2) of section 301. Under this section, in the event that effluent limitations are established under subsection (b)(2) of section 301 and such limitations are inadequate to attain or preserve water quality adequate to protect public water supplies, agricultural and industrial uses, fish and wildlife, and recreational activities, the State or the Administrator will be required to establish a more restrictive effluent limitation to attain such quality. Before setting such a limitation, the Administrator will be required to hold a hearing to determine the relationship of the economic, social, and environmental costs of compliance with the limitation to the results to be obtained. If this relationship were unreasonable, the limitation would be adjusted.

This section would become operative only if the Congress, after study of the economic, social, and environmental impact of the goals proposed for 1981, decides to implement those goals. It must also be noted that the applicability of section 302 is restricted to publicly owned treatment works until such time as the Congress enacts a law to impose the January 1, 1981, requirement of subsection (b)(2) of section 301.

Proposed effluent limitations under section 302 shall in no case operate to delay the application of any effluent limitation established under section 301.

Section 303—Water Quality Standards and Implementation Plans

Section 303 continues the use of water quality standards. Any water quality standard, including use designation, water quality criteria, and implementation plan, 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 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, shall remain in effect unless the Administrator determines that such standard is not consistent with the Act, as it existed before the enactment of the 1972 Amendments.

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Any water quality standards applicable to intrastate waters which were adopted by any State pursuant to its own law prior to the enactment of the 1972 Amendments are to be submitted to the Administrator within 30 days of enactment of the 1972 Amendments. Any such standard for intrastate waters which the Administrator determines to be consistent with the applicable requirements of the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of the 1972 Amendments shall remain in effect to the same extent as any other water quality standard established under this Act. If the Administrator determines that such standard for intrastate waters submitted by a State is inconsistent with the basis for setting interstate standards in the Act as it existed prior to enactment of the 1972 Amendments he shall notify the State and specify changes which, if not adopted by the State within 90 days after notification, shall be promulgated by the Administrator.

If a State has not adopted water quality standards applicable to intrastate waters prior to the enactment of the 1972 Amendments, such State shall adopt and submit such standards to the Administrator. If these standards are consistent with the basis for setting interstate standards in the Act as it existed prior to the enactment of the 1972 Amendments, the Administrator shall approve such standards for intrastate waters. If they are not, the Administrator shall specify changes to meet the requirements: If the changes are not adopted by the State within 90 days after receiving the notification, standards for intrastate waters are to be promulgated by the Administrator.

If for any reason, water quality standards for either intrastate or interstate waters are promulgated by the Administrator under subsection (a), they shall be consistent with the Act as it existed prior to the enactment of the 1972 Amendments.

Any standard revised or adopted after the enactment of the 1972 Amendments under subsection (c) shall consist of the use designation and the water quality criteria and will not include implementation plans as required in the Act as it existed prior to enactment of the 1972 Amendments. These standards will be subject to the Administrator's approval and if they are not approved, the Administrator may promulgate revised or new standards. The Committee expects the Administrator to work closely with the State to obtain approved standards before he promulgates standards for any waters.

Water quality standards will be utilized for the purpose of setting effluent limitations in those cases where effluent limitations for point sources would not be consistent with such standards. Even though all point sources must by January 1, 1976, as a minimum, meet the requirements of subsection (b)(1)(A) and subsection (b)(1)(B) of section 301 all point sources could be required to meet a more stringent effluent limitation consistent with water quality standards of the receiving waters if the effluent limitations set pursuant to subsection (b)(1)(A) and subsection (b)(1)(B) of section 301 are inadequate to meet those water quality standards. In this case a more stringent effluent limitation will be imposed.

Any required more stringent effluent limitations will be set on the basis of that reduction in the quantity and quality of the discharge of pollutants which would be required to make the total discharge load

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in the receiving waters from municipal and industrial sources consistent with water quality standards. This should not be interpreted to mean that such more stringent industrial and municipal effluent limitations will, in themselves, bring about a meeting of water quality standards for receiving waters. The Committee clearly recognizes that non-point sources of pollution are a major contributor to water quality problems.

The Committee heard extensive testimony during the oversight and legislative hearings to the effect that it is extremely difficult to apportion the discharge load from all point sources along a waterway or section of a waterway. However, testimony was also heard from the more experienced States that they already have this capability. The Committee feels that with appropriate support from the Administrator, the required analysis can be completed by the State in a timely fashion.

Subsection (d)(1) of section 303 requires each State to identify for the Administrator's approval those waters within its boundaries for which the effluent limitations required for non-publicly owned point sources and for publicly owned treatment works by January 1, 1976, are not stringent enough to implement any water standard applicable to such waters. Each State would then establish a priority ranking for such waters which takes into account the severity of the pollution and the uses to be made of such waters. For example, a waterway, which is the sole source of drinking water for a municipality but which has a lower level of pollution could have a higher priority than a more polluted waterway within the same State which is not used as a source of drinking water.

The State shall establish from any waters so identified, in their order of priority, the total maximum daily load, with seasonal variations and margins of safety, for those pollutants (including all types of heat) for which the water quality standards cannot be met and which the Administrator has identified under subsection (a)(2) of section 304 as suitable for such calculation. These daily load limits are to be submitted to the Administrator for his approval. If they are approved, they are to be incorporated into the applicable State plan under subsection (e) of section 303.

A maximum daily load shall also be developed by a State for all waters within its boundaries which are not identified as requiring more stringent effluent limitations to meet water quality standards. The committee recognizes that this is a time-consuming and difficult task. However, if effluent limitations which meet best applicable control technology currently available are to provide a water quality equal to or exceeding water quality standards such maximum daily load limits must be available for correlation.

Section 303(e) requires each State to have a continuing planning process which will result in plans for all navigable waters within such State which plans include, but are not limited to, effluent limitations and schedules of compliance at least as stringent as any required to meet any applicable water quality standard, the best practicable control technology currently available for point sources other than publicly-owned treatment works pursuant to section 301(b)(1)(A), effluent limitations based upon secondary treatment as required by section 301(b)(1)(B), the January 1, 1981, requirements in section 201(d)

for publicly-owned treatment works, for the new source performance standards of section 306, and the toxic and pre-treatment standards of section 307. These plans shall also be consistent with any applicable, area-wide, waste management plans under section 208, applicable basin plans under section 209, and the total maximum daily load for pollutants in accordance with section 303(d).

Section 304—Information and Guidelines

This section states a number of specific requirements for the development of criteria or information, guidelines, factors, procedures, and analyses which are required to implement either the objective of this Act or the requirements of the different sections.

Within one year after enactment of the 1972 Amendments, the Administrator shall publish criteria on water quality. The criteria must accurately reflect the latest scientific knowledge on the kind and extent of the identifiable effects of pollutants in any body of water, including groundwater, on aquatic life, shorelines, beaches, esthetics and recreation; the concentration and dispersal through natural processes; and the effect of pollutants on aquatic life.

Section 304(b) requires the Administrator, after consultation with appropriate Federal and State agencies and other interested persons, to publish within one year of the enactment of the 1972 Amendments, regulations for the establishment of effluent limitations, consistent with the "best practicable control technology currently available", and the "best available demonstrated technology". The Administrator shall also 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.

As required in section 304(b)(1)(A), the Administrator, by regulations, is to identify the degree of effluent reduction attainable by the application of the best practicable control technology currently available for classes and categories of point sources. By this the Committee expects that the Administrator will concentrate on, but not be limited to, those categories of point sources enumerated in section 306(b)(1)(A) and any which the Administrator might add to that list. The Committee expects that the identification will be in objective terms and will set out actual perfarmance levels for the classes and categories of point sources rather than prescribing specific control techniques, processes, or equipment.

In specifying the factors to be taken into account in determining the control measures and practices to be applicable to any point source within a category and class, the Administrator is expected to give specific and detailed consideration to the age of the equipment and facilities involved, the process employed (including batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, the cost and the economic, social, and environmental impacts of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate.

As required in section 304(b)(2)(A), the Administrator is to identify the degree of effluent reduction attainable by the application of the best available demonstrated control measures and practices. By

this the Committee intends that the degree of reduction be specified in objective terms and that the incorporation of a specific process shall not be required. This means that the Administrator shall not prescribe a specific design or process in order to meet the requirements of best available demonstrated control technology but instead shall set out effluent limitations which are consistent with such best available demonstrated technology.

Best available demonstrated technology is the highest degree of technology and control that has been achieved or has been demonstrated to be capable of being designed for plant scale operation. Costs for this level of treatment may be much higher than that for the application of best practicable control technology currently available. This level of control is intended to be the top-of-the line of current technology, subject to limitations imposed by economic feasibility and the economic, social and environmental impact.

In the determination of the factors for best practicable demonstrated control technology currently available and best applicable demonstrated technology, the Administrator is expected to actively consult with appropriate Federal and State agencies. For example, it is expected that the Department of Commerce will be consulted on potential economic effects and that the States which might be affected would be consulted for the totality of impacts. The Committee is most determined that other Federal and State agencies will participate in meaningful consultation with the Administrator.

As required in section 304(c), and after the same level of consultation with other Federal and State agencies required by section 304(b), the Administrator shall issue to the States and the appropriate water pollution control agencies, within one year after enactment of the 1972 Amendments, information on processes, procedures, and operating methods which result in the elimination or reduction of the discharge of pollutants from new sources as required under section 306. This information is not to be interpreted as a requirement under section 306, but is only to be considered as information on available methods which may meet the requirements of section 306 as applied to specific new sources.

As required in section 304(d)(1), the Administrator shall publish information in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction available through the application of secondary treatment. The Committee intends that the term "secondary treatment" shall be utilized for the purposes of this section in its broadest context. The Committee does not mean secondary treatment to include only the treatment of suspended solids and BOB.

Section 304(d)(2) requires the Administrator to publish information on alternative waste treatment management techniques and systems available to implement section 301 of this Act. The Committee intends that the Administrator shall emphasize land disposal techniques. If the goal of eliminating the discharge of pollutants into our Nation's waters is to be achieved, land disposal of the waste from treatment works will be necessary. It is mandatory that information on such techniques be kept up to date and published if it is available in order that the planning as required in section 208 and the considera-

tion of alternatives as required in section 201 can be based upon the latest developments in land disposal.

Section 304(e) addresses the problem of nonpoint sources of pollutants. This section and the information on such nonpoint sources is among the most important in the 1972 Amendments. If our water pollution problems are to be truly solved, we are going to have to vigorously address the problems of nonpoint sources. The Committee, therefore, expects the Administrator to be most diligent in gathering and distribution of the guidelines for the identification of nonpoint sources and the information on processes, procedures, and methods for control of pollution from such nonpoint sources as agricultural and silvicultural activities including runoff from crop and forest lands; new, operating and abandoned mining operations; construction activities; the disposal of pollutants in wells or other subsurface excavations; salt water intrusion; and natural and manmade changes in the normal flow of surface and ground waters.

The Administrator shall also publish guidelines on pretreatment standards for pollutants that are not susceptible to treatment by publicly owned treatment works, information on lake restoration, guidelines for test procedures to analyze pollutants, and guidelines for the monitoring, reporting, and enforcement requirements to be included in any State permit program established pursuant to section 402.

The Committee recognizes that many of the activities required by this Act are the subject, directly or indirectly, of Federal programs established for other purposes. This bill for the first time directs attention to these activities in the context of integrated water pollution control. It should be clear that the Committee does not intend that the Administrator should develop information on these subjects completely independently. Rather, to the extent possible, he should utilize the existing knowledge and existing programs of other Federal agencies and incorporate the fruits of such programs into the information published under this section.

In order to carry out this intent, the Administrator is instructed to enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, to fully incorporate programs conducted in their Departments in carrying out the objectives of the Act. The administrator is authorized to transfer funds provided under this section to those other Secretaries, in order to further enhance those programs for water pollution control.

Section 305—Water Quality Inventory

The Administrator is required to send to Congress by July 1, 1973, a report that describes the specific quality of all U.S. waters during 1972. The report must identify and inventory all point sources of discharge together with an analysis of each discharge.

Those navigable waters that presently allow recreation in and on the water and provide protection for the propagation of fish must be identified in the report. Those waters that will meet such a level of water quality by 1976 or by 1981 if the January 1, 1981 requirements are subsequently implemented or if the January 1, 1981, requirements are not, as well as those waters that will meet that level of quality at some later date if the January 1, 1981, requirements are subsequently implemented or if they are not must also be identified.

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Each State must submit by July 1, 1974, and annually thereafter, a report that describes the existing water quality on all its navigable waters. The report must correlate the existing water quality with the water quality described in the criteria published under section 304(a), plus an analysis of the extent to which all navigable waters in the State provide for the protection of fish and allow recreation in and on the water.

Each State is further required to submit an estimate of the economic, social, and environmental costs, and an analysis of the economic, social, and environmental benefits, of achieving that water quality, and an estimate of the date on which the proposed goals of the Act might be met. The report should also describe the nature and extent of nonpoint sources of pollution, programs to control such sources, and the cost of such programs.

The most important aspect of the program required to fulfill this section is the implicit requirement for close State/Federal cooperation in data and information-gathering efforts. The Committee emphasizes the responsibility of the States in providing the necessary information. However, the Administrator is expected to support the States in these efforts through full use of other authorities contained in the bill. In particular, State requirements under this section should be supported by Federal programs developed under section 104(a)(5) establishing a water quality surveillance system, and under section 104(b)(6) which necessitates a system of collection and dissemination of basic water quality and other information pertaining to water pollution control.

To prevent any possible duplication of effort, the Federal requirement to produce the initial report should be used as impetus toward developing a mutually useable State/Federal data exchange mechanism making State and Federal water quality and waste sources inventories reciprocally available.

The thrust of this section is to require, on a regular basis, a comparison of actual water quality with the water quality required to support a balanced fish and wildlife population and recreational activities. As a practical matter, this will be accomplished through monitoring activities throughout the United States. The resulting data will be compared with the required levels of water quality under water quality standards, as they will be revised and upgraded pursuant to guidelines under section 304.

Section 306—National Standards of Performance

This section provides for national standards of performance for any new source of the discharge of pollutants. Such standards shall be applicable to any new source regardless of where it is constructed.

In section 306, the Committee recognizes two of the most significant factors in the attainment of clean water. These factors are (1) the need to preclude the construction of new sources or the modification of existing sources which use less than the best available control technology for the reduction or elimination of the discharge of pollutants, and (2) the recognition of the significantly lower expense of attaining a given level of effluent control in a new facility as compared to the future cost of retrofitting a facility to meet stringent water pollution control measures.

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New sources of the discharge of pollutants include any source for which the construction or modification (not including the construction or modification of pollutant abatement facilities for existing plants) is commenced after the publication of proposed regulations prescribing a standard of performance under section 306. New sources of the discharge pollutants, including, as a minimum those in twenty-seven specified categories of sources must be constructed to meet a standard of performance that reflects the greatest degree of effluent reduction that can be achieved by the use of the best available demonstrated control technology, processes, or operating methods for that category of sources, and for class, types, and sizes within categories of new sources. If it is practicable, a new source performance standard could prohibit any discharge of pollutants.

In the establishment or the periodic revision of new source performance standards for a class, type, or category of new sources, the Administrator shall take into consideration factors relating to the age of the equipment and facilities within the class, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition and such other factors as he deems appropriate.

Standards of performance shall apply to all sources within a category, unless, after application by the owner or operator of any source which as a result of modification is subject to this section, and after public hearing, the Administrator determines that the economic, social, and environmental costs bear no reasonable relationship to the economic, social, and environmental benefit to be obtained. It is emphasized that this individual treatment can apply only in the case of new sources resulting from modifications to existing plants.

The term "best available demonstrated control technology, processes, operating methods" refers both to control technology applicable to the end of the pipe and to control technology and procedures and operating methods inside the production plant.

It must be recognized that if the process which is intended to be used would not have a discharge of pollutants, the Administrator would not be able to preclude the construction of such a plant.

It will be sufficient, for the purposes of setting the level of control under available technology, that there be one operating facility which demonstrates that the level can be achieved or that there is sufficient information and data from a relevant pilot plant or semi-works plant to provide the needed economic and technical justification for such a new source.

New sources of the discharge of pollutants include any source for which construction or modification (not including the construction of pollution abatement facilities) is commenced after the publication of proposed regulations prescribing a standard of performance under section 306.

It must be noted that the Committee intends that when a given plant is incorporating a modification of a production process or facility which will change the characteristics of the effluent discharge then the best available treatment will be required. The Committee, however, recognizes, as should the Administrator or State authorities, that

batch manufacturing processes are set up for a mill run and then disassembled or extensively modified for another mill run of another product. To treat each breakdown and setup as a new source would be unreasonable. Thus the Committee expects that a reasonable and not a strict interpretation of the term modification will be applied with respect to batch processing equipment.

The Administrator may delegate his authority to individual States if they develop procedures for setting and enforcing standards of performance for new sources.

It shall be unlawful to operate any new source in violation of any standard of performance applicable to such source. Violations may be enforced by the Administrator pursuant to section 309 or by the Administrator or the State via the enforcement of any applicable permit.

Section 307—Toxic and Pretreatment Effluent Standards

This section provides for the setting of effluent standards for toxic pollutants or combinations of pollutants. There are also provisions for the setting of pretreatment standards for pollutants which will be discharged into publicly owned treatment works.

EPA shall publish within 90 days of enactment of the 1972 Amendments a list of pollutants or combinations of pollutants that are determined to be a toxic pollutant under the definition in paragraph (14) of section 502. Six months later, EPA shall publish a proposed effluent standard for each listed toxic pollutant. This could include a prohibition of the discharge of a toxic pollutant or combination of pollutants.

No later than six months after publication of the proposed standard, and after a hearing on the proposed standard which will be held within thirty days of the publication of the proposed standard, EPA shall promulgate that proposed standard unless, based upon a preponderance of the evidence of the hearings, he finds that a variation from the standard is justified. Any standard must provide an ample margin of safety.

The Committee intends that any standard under this section shall recognize that the toxicity of some "pollutant" will depend upon the species or valence of the pollutant present in any discharge. In these cases, it is expected that standards should be set in terms of the specific species or valence. Care should be taken, however, to be reasonably assured that physical, chemical or biological processes in the receiving waters will not cause changes in the species or valence.

The Administrator is authorized to set standards which include a total prohibition of toxic pollutants. The Committee expects that any such prohibition will reflect naturally occurring background quantities of the pollutant in question. In any event, a proper margin of safety must be maintained.

The Administrator is directed under this section to establish a list of substances which are recognized to be toxic when released into the environment. However, the standards which are to be established for that list may be varied pursuant to Section 307(a)(5) according to the category or categories of source to which the effluent standard shall apply. Less stringent standards for an industry will not be established simply because it is more expensive to treat wastes to eliminate

or reduce toxic discharges in one industry than in another. The Committee considers that the discharge of toxic pollutants are much too dangerous to be permitted on merely economic grounds.

Subsection (b) requires EPA to set national pretreatment standards for introduction of pollutants into publicly owned treatment works. These standards must cover pollutants that are not susceptible to treatment at the treatment works or which would interfere with operation of a municipal treatment plant. The pretreatment standards may be set for pollutants introduced into publicly owned treatment works from a specified category or specific categories of sources. These standards will be utilized to prevent the introduction of industrial and commercial pollutants into municipal collection systems and wastewater treatment plants if introduction would impair the effectiveness of the process utilized in the treatment works or if the pollutants would pass through untreated or inadequately treated into the Nation's waters. It should be understood that the pretreatment standards established under this section would be national in scope and addressed to the most significant pretreatment problems. The Committee expects that the standards would vary with the broad type of treatment processes used, but the Committee does not intend that each individual treatment works would have its pretreatment standards set up by the Administrator.

These standards will not preclude municipalities and States from establishing pretreatment standards not in conflict with any Federal pretreatment standard to control types, flows, concentration, and variability of industrial and commercial discharges into municipal treatment works. It is expected that each manager of a treatment works would provide for such standards.

It should be understood that this section authorizes the Administrator to prohibit the discharge of certain industrial and commercial wastes which are unavoidably detrimental to municipal treatment works and to require treatability studies on those pollutants for which there is inadequate existing information available to assess treatability in municipal systems. It is not intended that private pre-treatment facilities be required as a substitute for adequate municipal waste treatment works. The administrator would be expected to prohibit the discharge of any industrial pollutants which adversely affect the functions of treatment works. Conversely there may be industrial wastes which stimulate the performance of conventional treatment works, or which are consistent with alternative control strategies. The latter should be identified. For example, the Committee's hearing indicated that in some cities, the discharge of residue for the production of beer has greatly assisted in the production of commercial fertilizers.

Section 308—Inspections, Monitoring and Entry

The Committee has found that one of the critical deficiencies in existing law is the lack of an effective system for obtaining information on pollutants discharged to surface or ground waters. The Committee recognizes that the Environmental Protection Agency has had difficulty in obtaining reliable cost and waste loading information to set effluent limits and to enforce effective pollution control. This lack of data has in many cases greatly impeded effective en-

forcement of implementation schedules established pursuant to an enforcement conference or as part of water quality standards.

To correct this deficiency, the Committee has created authority for the Administrator to require that each point source be monitored and that reports as the Administrator may reasonably require on information obtained by the monitoring to be supplied to the Administrator and Federal agencies; to enter and inspect any premise in which an effluent source is located; to inspect any records concerning any point source discharges and to make all such information available to the public, except for information entitled to protection under 18 U.S.C. 1905 which protects trade secrets.

By the term "any premises in which an effluent source is located" the Committee means the facility and any relevant part of the process which produces the effluent.

This section requires the owner or operator of any point source to monitor his own discharges accurately and to provide information to show whether or not he is in compliance with effluent limitations and other requirements under this Act.

An indirect result of this requirement to provide valid data will be the expansion of EPA's and the States' data base for monitoring and planning. However, such monitoring is basically for control of the discharge of pollutants and not the gathering of data. The rights of the Administrator to inspect is limited to control of discharge of pollutants and not data gathering per se.

The Committee expects that authority granted to the Administrator under this section will be utilized to monitor pollutant discharges into publicly owned treatment facilities to ascertain compliance with pretreatment standards promulgated under section 307(b). Appropriate equipment will be required to monitor pollutants discharged into publicly owned treatment works.

The individual States participating in the permit program authorized by section 402 are required by section 402 to have the authority to inspect, monitor, enter, and require to at least the same extent as required in section 308. Such State actions are not a delegation of Federal authority.

Section 309—Federal Enforcement

The Committee has provided fast, effective, and straightforward enforcement procedures to replace enforcement conferences and 180-day notices in the Water Quality Act of 1965. Section 309 contains provisions for Federal enforcement of violations of an unpermitted discharge under section 301 or a violation of any permit condition or limitation which implements any effluent limitation under section 302, any performance standard under section 306, any toxic effluent standard under 307, any inspection, monitoring or entry requirement under section 308, and any discharge permit issued in an approved State permit program under section 402 or a permit issued by the Administrator under section 402 of this Act.

Whenever on the basis of any information available to him the Administrator finds that anyone is in violation of any of these requirements, he may take any of the following enforcement actions: (1) he shall issue an order requiring compliance; (2) he shall notify the person in alleged violation in such State of such finding. If beyond

the 30th 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 a permit for a condition or limitation of a permit; or (3) he shall bring a civil action; or (4) he shall cause to be instituted criminal proceedings.

Any civil action commenced by the Administrator shall be for appropriate relief including a permanent or temporary injunction in any case where the Administrator is authorized to issue a compliance order. Any person who violates any of these provisions or who violates an order issued by the Administrator shall be subject to a civil penalty of not to exceed $10,000 per day of such violation.

In the case of a willful or negligent violation by any person of section 301, 302, 306, 307, 308, or 316, or any permit condition or limitation implementing any of these sections in a permit issued under section 402 of this Act by the Administrator or by a State shall be punished by a criminal penalty of 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. Any subsequent conviction for a violation by such person shall be subject to a criminal penalty of a fine of not more than $50,000 per day of violation or by imprisonment for not more than two years, or by both.

Whoever knowingly makes a false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or 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.

The requirements of section 303 which provide for water quality standards and implementation plans may be enforced under the provisions of section 309 because section 303 is operative under section 301(b)(1)(C). Section 301(b)(1)(C) requires the meeting of any water quality standards, treatment standards, or schedules for compliance, established pursuant to any other State or Federal law or regulation, or any more stringent requirements such limitation required to implement any applicable water quality standard established pursuant to this Act.

Consistent with the general tenor of this Act, the Committee expects that the Administrator will rely to the maximum extent possible upon the enforcement actions of the individual States. The Committee in providing for Federal enforcement does not intend to replace enforcement by the States. The provisions of section 309 are supplemental to those of the State and are available to the Administrator in those cases where local, State, or interstate enforcement agencies will not or cannot act expeditiously and vigorously to enforce the requirements of this Act. The Committee clearly intends that the greater proportion of enforcement actions be brought by the Staes.

The Committee expects that the Administrator will notify a State before he commences any civil action whenever possible.

Section 309(e) provides that the State in which any municipality which is a party to a civil action brought by the United States under this section, shall be joined as a party to the extent that the laws of

that State prevent the municipality from raising revenues needed to pay expenses required by a judgment resulting from any such action. The State shall be liable for the payment of any judgment penalties or court expenses. This provision was included because of the Committee's awareness of the fact that some States have laws limiting the capacity of municipalities to raise revenues for such payments.

Section 310—International Pollution Abatement

If the Administrator has reason to believe that pollution is occuring in the United States which endangers the health or welfare of persons in a foreign country and the Secretary of State requests abatement of said pollution, the Administrator must notify the State where the discharge originates. If the pollution is in sufficient quantity to warrant such action and if the foreign nation has given the U.S. similar rights over pollution originating in that nation, the Administrator shall call a hearing. The hearing board shall consider the allegation and make a recommendation. If the recommendation calls for abatement, the Administrator shall initiate abatement action to implement the hearing board's decision.

Section 10(d)(2) of the existing law provides for a method of abatement of water pollution involving a hearing or conference procedure. Although the Committee believes that, in general, the conference procedures are too time-consuming to form the basis of an effective abatement program, they do provide an appropriate forum where sensitive international pollution abatement issues may be resolved. Accordingly, they are retained in this section. However, under existing law, the conference procedure results in "recommendations," which are enforceable in court. This procedure was revised. The Committee feels that individual dischargers should be required to comply only with specific requirements established to the procedures set forth in this Act. The Administrator would be required to carry out decisions arrived at in the conference through these procedures. For example, conference recommendations might result in recognition of requirements for upgrading of water quality standards pursuant to section 303. Or, if a conference were to disclose widespread violations of the Act, the Administrator might assume enforcement authority under section 309(a)(2), or simply issue orders under section 309(a)(3).

The Committee recognizes that the United States shares the North American continent with Canada to the North and Mexico to the South. With both countries we share common boundary waters. A Treaty has existed since 1909 between the United States and Canada, a provision of which specifically agrees that boundary waters "shall not be polluted on either side to the injury of health or property on the other." The most significant water resource we share with our Canadian neighbors are the Great Lakes and their Connecting Channels, the largest system of fresh water lakes found anywhere in the world. Their economic significance to both countries is obvious.

The Committee recognizes that the Administrator of EPA in administrating the provisions of this act may wish to give added consideration to those water pollution control projects along our boundaries which are considered to be of international significance and will enable our country to meet our Treaty commitments.

Section 311—Oil and Hazardous Substance Liability

Section 311 closely follows existing section 11 with respect to oil spills. New provisions for hazardous substances have been added.

The discharger of any hazardous substances that cannot be cleaned up is liable to a penalty of not to exceed $50,000 per discharge depending upon the characteristics of the discharged substance except where the United States can show that such discharge was a result of willful negligence or willful conduct within the privity and knowledge of the owner or operator, such owner or operator shall be liable to a civil penalty as determined by the Administrator. A discharger of a hazardous substance may raise the same defenses as a discharger of oil under existing law: an Act of God, act of war, negligence on the part of the U.S. Government, or an act of a third party.

The Administrator will be required to publish a list of hazardous substances. The list of hazardous substances must be easy to understand, and must receive widespread publicity.

A pollutant may be designated hazardous if it presents an imminent and substantial danger to the public health or welfare, including fish, shellfish, and beaches.

Any substance designated as hazardous will have a determination made by the Administrator as to whether the designated substance is actually removable. In this regard, the Committee expects that the Administrator will take a reasonable and not a restrictive attitude in the interpretation of the term "actually removable". The Administrator can specify conditions in a graduated approach under which the substance is removable or not removable, in whole or in part.

The definition of the terms 'remove' and 'removal' refers to actual removal by any means including physical, chemical, biological degradation or any other appropriate method or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare.

The authorization for appropriations in section 311(k) is merely a restatement of existing provisions. This is not an increase in the authorization and any funds previously appropriated are chargeable to this fund.

Section 311(h) provides that either the district court of Guam or the District Court of the United States for the District of Hawaii shall have jurisdiction of actions arising in the Trust Territory of the Pacific Islands under section 11 except those actions arising under section 311(i)(1).

The language "notice and opportunity for a hearing" of Section 311(b)(6) is not intended to impose in every instance the complex procedural requirements associated with formal adjudicatory hearings on the record before a hearing examiner such as are used for ratemaking and similar federal rule issuance. The committee believes that effective administrative enforcement will be enhanced by assessment procedures which are expeditious. Provisions of title 5 of the United States Code commonly referred to as the Administrative Procedure Act, as amended, will nevertheless apply to assure due process and protection of a respondent's rights. In that regard, the respondent has the opportunity of a de novo hearing in any collection proceeding initiated by a United States Attorney after the conclusion of admin-

istrative procedures. The net result is to parallel the penalty assessment method which the Coast Guard has used in the past in connection with laws which it administers.

Section 312—Marine Sanitation Devices

This section is almost identical to the provisions on marine sanitation devices in existing law, which were enacted as a part of the Water Quality Improvement Act of 1970 (Public Law 91-224). However, new language frees from State regulation any owner of a vessel who installs a marine sanitation device which device and installation is in compliance with any applicable Federal standard or regulation prior to the effective date of standards and regulations that require use of such device.

The existing law frees from State regulation anyone in compliance with standards and regulations after the effective date of the initial regulations and standards. The Committee originally intended to make this Federal preemption applicable in this manner when Public Law 91-224 was enacted. Thus, this provision simply carries out the original intent of the Committee.

This section continues the provisions of existing law which make standards and regulations on marine sanitation devices and their installation effective two years after their promulgation for new vessels. Any revision of standards after the initial effective date of such standards and regulations shall be effective upon promulgation unless another effective date is specified.

Section 312(f)(3) provides that if a State makes an application to the Administrator for a complete prohibition of the discharge from a vessel of any sewage (whether treated or not) into such waters, the Administrator, if he objects, shall by regulations completely prohibit such discharge.

Section 312(m) provides that either the district court of Guam or the District Court of the United States for the District of Hawaii shall have jurisdiction of actions arising in the Trust Territory of the Pacific Islands under section 311 except those actions arising under section 311(i)(1).

Section 313—Federal Facilities Pollution Control

This section requires that Federal facilities meet the same effluent limitations, other limitations, performance standards, toxic effluent standards and thermal discharge regulations as private sources of pollution, unless the Federal facility is specifically exempted by the President. The President cannot exempt any source from the requirements of sections 306 and 307.

The lease of public lands by various Federal agencies to concessioners or other organizations for the purpose of providing regional facilities often results in serious sanitation problems. The Committee believes that the responsible Federal agencies should take this into account at the time lease arrangements are made to see that necessary facilities are provided either by the Federal agency or by the leasee and that appropriate user chargers should be established.

The Committee, after hearing of numerous examples of flagrant violation of pollution controls is determined that the Federal facilities shall be a model for the Nation and that unless exempted by the

President, they shall be required to meet all requirements as if they were private citizens. Any exemptions would be for periods no more than one year although the President could grant more than one exemption for a given Federal facility.

All exemptions granted by the President during the previous calendar year shall be reported to the Congress each January. The Committee expects that such report will contain detailed reasons for any exemption and the corrective action being taken.

The lack of an appropriation shall not be the basis for an exemption unless the Congress shall have specifically rejected a request for funds that appeared as line item in the budget.

Section 314—Clean Lakes

Each State is required to submit an identification and classification of all publicly owned fresh water lakes, and may develop procedures, processes, and methods to control sources of pollution in such lakes. Federal assistance to the States in the form of grants is authorized to carry out methods and procedures approved by the Administrator. This system recognizes that the problem with which the section attempts to deal is essentially a matter for the States to resolve, with Federal assistance. It is not a matter to be dealt with by a direct Federal program, except as otherwise provided in the Act.

At the same time, the Committee recognizes the urgency of dealing with such problems as excessive sedimentation and accelerated eutrophication, which threaten many of our valuable lake resources. Accordingly, the Administrator will be expected, in carrying out the purposes of this section, to utilize all the authorities available to him under the Act.

Section 315—National Academies Study

The National Academy of Sciences shall report to Congress within two years on the economic, social, environmental and technological effects of achieving or not achieving the effluent limitation and goals set forth for January 1, 1981, in section 301(b)(2). The Congress must know the cost and impact of the no discharge requirements of the January 1, 1981, requirements.

The Committee, after thorough investigation and hearings, has determined that the goals set forth in section 301(b) of this Act for January 1, 1981, the elimination of the discharge of pollutants, will need to be evaluated carefully to determine the economic, social, and environmental impact of such a requirement before legislation is considered to impose this as a national policy. Thus, the Committee selected the National Academy of Science and the National Academy of Engineering as the most competent and unbiased organization to perform this most difficult and important task.

The Committee received extensive testimony on the cost of the elimination of discharge of pollutants. While there is controversy as to the validity of the estimated costs to both the Federal, State, and local governments and to industry that were received, there is no question on the part of the Committee that the costs would be enormous. Faced with the wide variation in estimates, the Committee feels that it would be irresponsible at this time to impose this requirement on the Nation without gathering additional facts and without making a de-

tailed and competent review by a multi-disciplined team which can review all facets of the social, economic, technological, and environmental effects of this requirement.

The Committee expects that the National Academy of Sciences and the National Academy of Engineering will assemble a multi-disciplined team of experts from within the Academy itself and will supplement this Academy team via contract or otherwise with whatever outside help is required to provide the full scope of capabilities in the scientific, engineering, economic, biological, medical, legal, social science, ecological and international trade disciplines. The Committee expects this report, which is among the most important to ever be requested by the Congress from any source to be completed in the time required and in sufficient detail to provide the basis for future action by the Congress.

Section 316—Regulation of Thermal Discharges

This section regulates thermal discharges which are defined in paragraph (17) of section 502 to mean the introduction of water into the navigable waters on the waters of the contiguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

The definition restricts thermal discharges to water which is at either a higher or lower temperature than the receiving waters. It does not include heat otherwise introduced into waters. It also does not in any way exclude any other pollutant which may be contained in the heated or cooled water.

The Committee expects the Administrator to assign the highest priorities to the issuance of proposed thermal discharge regulation as required by section 316(a) and to the promulgation of such regulations, after comment by any interested persons, as required by section 316(c).

Thermal discharges may be enforced by the provisions for Federal enforcement under section 309 in the case of any violation of a condition or limitation on thermal discharges in any permit issued by the Administrator or a State under section 402. No permit shall be issued under section 402 for any thermal discharge not in compliance with any thermal discharge regulations issued consistent with section 316.

It is the intent of the Committee that the application of thermal discharge regulations to any given point source shall reflect, if after a public hearing which be requested by the owner or operator of a point source, a consideration of the relationship of the economic and social costs of the implementation of the regulations to the economic and social benefits and water quality objectives to be obtained.

The Committee expects that any thermal discharge will be made only after alternative methods for controlling such a discharge have been considered and evidence of such consideration is made available to the permitting agency.

Section 317—Financing Study

This section requires the Administrator to 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 including but not limited to the feasibility of establishing a pollution abatement trust fund.

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Timely submittal of the required report and recommendations for legislation and financing methods for the post 1976 period is expected.

Section 318—Aquaculture

It is the intention of the Committee to encourage the recycling of pollutants. There is a possibility of doing this with aquaculture. This, however, shall not result in a degradation of the aquatic environment. Therefore, the program is considered to be experimental and the permit program must be carefully controlled and evaluated to insure that the broad public interest in the aquatic environment is not compromised while at the same time making possible the investigation of the potential promise of aquaculture.

Any discharge of pollutants must be in accordance with a permit issued by the Administrator pursuant to regulation. Such regulations shall authorize, on a selective basis, discharges which would otherwise be prohibited as in violation of the requirements of this Act, but which clearly will be controlled in such a way as not to contribute to pollution outside the designated project area. Applicants will be expected to demonstrate, to the satisfaction of the Administrator, that the project will be beneficial, will be controlled so as to preclude the possibility of pollutants reducing waters outside the project area, and that the project will not interfere with designated beneficial uses of the waters in question.

Any permit issued under this section will be enforced by the Administrator pursuant to application provisions of section 309.

TITLE IV—PERMITS AND LICENSES

Section 401—Certification

Section 401 is substantially section 21(b) of the existing law amended to assure that it conforms and is consistent with the new requirements of the Federal Water Pollution Control Act.

Subsection (a)(1) of Section 401 requires any applicant for a Federal license or permit to conduct any activity (this includes constructing or operating facilities) which may result in any discharge into navigable waters to provide the licensing or permitting agency with a certification from the State in which the discharge originates or will originate or a certification from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate if such certification is appropriate from such interstate agency rather than from the State of origin. This certification must state that any such discharge will comply with the "applicable" provisions of sections 301, 302, 306, 307 and 316 of this Act.

The Committee notes that the term "applicable" as used in section 401 has two meanings. It means that the requirement which the term "applicable" refers to must be pertinent and apply to the activity and the requirements must be in existence by having been promulgated or implemented. For example, if a thermal discharge regulation has no relevance to an activity, the State need not certify that the activity will comply with section 316. Similarly, if an effluent limitation has not been established under section 302, obviously a State could not certify that the activity will comply with an effluent limitation under that section.

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In the case of any activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, applicable standard under sections 306 and 307 and applicable regulation under section 316, the State would so declare in its certification.

The State is required to provide public notice with respect to all applications received by it for certification and, to the extent that the State determines it appropriate, to establish procedures for holding public hearings with respect to specific applications. If a State or interstate agency has no authority to make such a certification, then the certifications must be obtained from the Administrator of EPA.

In order to insure that sheer inactivity by the State, interstate agency or Administrator as the case may be, will not frustrate the Federal application, a requirement, that if within a reasonable period, which cannot exceed 1 year, after it has received a request to certify the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on the request for certification, then the certification requirement is waived. If a State refuses to give a certification, the courts of that State are the forum in which the applicant must challenge the refusal if the applicant wishes to do so. No Federal license or permit shall be granted unless this certification has first been obtained or there has been a waiver of the requirement as provided by this subsection. Denial of certification by a State, interstate agency, or the Administrator, as the case may be, results in a complete prohibition against the issuance of the Federal license or permit.

Subsection (a) (2) of section 401 provided that when a licensing or permitting agency receives an application and a certification, it must immediately notify the Administrator thereof. Whenever such a discharge may affect the quality of the waters of any other State as determined by the Administrator then the Administrator shall, within 30 days of the date he is notified of the application for the Federal license or permit, notify such other State, the licensing or permitting agency, and the applicant. If within 60 days thereafter the State so determined to be affected determines that the discharge will affect the quality of its waters so as to violate any water quality requirements in that State and within that 60-day period notifies the Administrator and the licensing or permitting agency of its objection to the issuance of the license or permit and requests a public hearing on its objection, such a public hearing shall be held by the licensing or permitting agency. At that hearing the Administrator shall submit his evaluation and recommendations with respect to the objection to the licensing or permitting agency. Based upon the recommendations of the State, the Administrator, and any additional evidence presented at the hearing, the agency shall condition the license or permit so as to insure compliance with applicable water quality requirements. If conditions cannot insure this compliance, the license or permit shall not be issued.

In the case where a Federal license or permit is required both as to the construction of a facility and its operation, the initial certification required for the construction license or permit shall fulfill the requirements of this subsection with respect to certification for a Federal license or permit to operate that facility unless the certifying State, interstate agency, or Administrator, as the case may be, after having been given notice of the application for an operating license

or permit by the agency to whom the application is made notifies that agency within 60 days that there is no longer reasonable assurance of compliance with applicable provision of sections 301, 302, 306, 307 and 316 because of changes since the construction license or permit certification was issued in (1) the construction or operation of the facility, (2) the characteristics of the waters into which the discharge is made, (3) the water quality criteria applicable to those waters, or (4) applicable effluent limitations or other requirements. This paragraph is made inapplicable if the applicant for the operating license or permit has not provided the certifying State, interstate agency, or Administrator, as the case may be, with notice of any proposed changes in the construction or operation of the facility which changes may result in violation of sections 301, 302, 306, 307, or 316.

Before the initial operation of a federally licensed or permitted facility or activity with respect to which a certification has been obtained under this provision which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee is required to provide an opportunity to the certifying State, agency, or Administrator as the case may be, to review the manner of operation of the facility for the purpose of assuring that applicable effluent limitations or other applicable water quality requirements will not be violated. Upon notification by such certifying State, agency, or Administrator, as the case may be, that operation of this facility will violate applicable effluent limitations or other limitations the Federal agency may, after public hearings suspend the license or permit until notification is received from the certifying State, agency or Administrator, as the case may be, that there is reasonable assurance that the facility or activity will not violate applicable provisions of sections 301, 302, 306, 307 or 316. This right to review the manner of operation of a facility or activity is not to be construed as authority to the State, agency, or Administrator, as the case may be, to impose operational requirements with respect to that facility or activity.

If a judgment is entered under the Federal Water Pollution Control Act that a federally licensed or permitted facility or activity has been operated in violation of applicable provisions of sections 301, 302, 306, 307 or 316, then the Federal license or permit with respect to which a certification has been obtained under this provision may be suspended or revoked by the Federal agency issuing that license or permit.

No Federal agency is to be deemed to be an applicant for the purposes of this subsection.

If the actual construction of a facility has been lawfully commenced prior to April 3, 1970 (the date of enactment of the Water Quality Improvement Act of 1970), then no certification is to be required for a license or permit issued thereafter to operate such facility except that if such a license or permit is issued without this certification it shall terminate April 3, 1973 unless before such date a proper certification is submitted to the licensing or permitting agency and the person having that license or permit otherwise meets the requirements of this subsection.

Subsection (b) provides that nothing in this section is to be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with applicable

water quality requirements. The Administrator is also directed to provide technical assistance to carry out the purposes of this Act.

The Committee notes that a similar provision in the 1970 Act has been interpreted to provide authority to the Administrator to independently review all State certifications. This was not the Committee's intent. The Administrator may perform services of a technical nature, such as furnishing information or commenting on methods to comply with limitations, standards, regulations, requirements or criteria, but only upon request of a State, interstate agency or Federal agency.

Subsection (c) authorizes the Chief of Engineers to permit the use of spoil disposal areas under his jurisdiction by a Federal licensee or permittee, to charge for that use, with the moneys received to be deposited in miscellaneous receipts of the Treasury. In considering the "public interest" the Chief of Engineers should take into consideration the necessity to maintain non-Federal dock and berthing facilities which are essential to the functioning of the Federal navigation project. In determining the needs and utilization of spoil disposal areas under the jurisdiction of the Chief of Engineers, he should give appropriate consideration to the related requirements of the non-Federal dredging activities and should consider their needs for disposal on the same basis as those of the Federal Government. Where local interests donates land, or shares in the costs of construction of spoil disposal areas, local interest should be permitted reasonable use of the area, utilizing the same standards as set forth in the two preceding sentences, at nominal charge.

Subsection (d) provides that any certifications must 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 (section 301, 302) or standard of performance (section 307), prohibition, effluent standard or pretreatment standard (section 307), or any regulation (section 316) of the Federal Water Pollution Control Act, and the effluent limitations and other limitations and any monitoring requirements will become a condition on any Federal license or permit.

It should be clearly noted that the certifications required by section 401 are for activities which may result in any discharge into navigable waters. It is not intended that State certification is or will be required for discharges into the contiguous zone or the oceans beyond the territorial seas.

Section 402—National pollutant discharge elimination system

During the Committee's extensive hearings—oversight and legislative—on water pollution control, one question which kept appearing and reappearing was the appropriate relationship between the Federal Water Pollution Control Act and the permit program initiated by the Corps of Engineers under the authority of the Refuse Act of 1899. Information gathered during the hearings made it abundantly clear that the two programs needed to be consolidated and not left each to go in its own direction. The Committee was particularly concerned that the overall administration of the Refuse Act permit program was in the Corps of Engineers and not EPA. Although the Committee has

the highest regard for the integrity and abilities of the Corps, the basic decision had been made by the President and the Congress at the time that the Environmental Protection Agency came into existence that it would be the single agency responsible for leading the battle against pollution. Although other agencies such as the Corps have a tremendous role to play in this battle, it must be a supportive role. The administration of the extremely important permit program is not a supportive role. Indeed, this permit program as envisioned by the Committee may well be the most important facet of the new water pollution control program.

Another problem raised by the Refuse Act permit program is the total usurpation of enforcement of water quality control by the Federal Government. This is inconsistent with the Federal-State partnership that is necessary if we are ever to have clean and safe waters. The role of the States must be clearly recognized. It is impossible for the Federal Government to succeed in this program without the close and active cooperation of the States. A system of permits which requires duplicative effort or destroys the initiative of the States and local governments is wasteful and non-productive.

The Committee has expended considerable time and effort in seeking to establish a permit program for discharges of pollutants into the navigable waters which will be meaningful and will accomplish its purpose. The Committee believes that section 402, as reported, does just this. It gives the Administrator of EPA and the State governments major roles in this program. The section provides a mechanism so that if a State chooses not to participate or if it does not live up to its responsibilities, the Administrator may step in and perform the task for the State. The Committee is confident, however, that, together, the Federal Government and the States will make the program work.

Subsection (a)(1) provides that the Administrator may issue a permit for the discharge of any polluant or any thermal discharge upon the condition that the discharge will meet all the applicable requirements of sections 301, 302, 306, 307, 308, 316 and 403 of this Act, or prior to the taking of the necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

As noted previously in this report, it is extremely important to an understanding of this section to know the definition of the various terms used and a careful reading of the definitions in section 502 is recommended. Of particular significance is the words "discharge of pollutants."

By the use of the term "discharge of pollutants" this provision covers any addition of any pollutant to navigable waters from any point source and 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. Thus, unlike the Refuse Act, this provision does not exempt from its coverage municipal waste treatment works. Furthermore, any discharge from a point source, other than a vessel or floating craft, in the contiguous zone or the ocean is clearly covered under this provision.

The Committee points out, as it did in the discussion of section 401, that the term "applicable" used in section 402 has two meanings. It

means that the requirement which the term "applicable" refers to must be pertinent and apply to the activity and the requirement must be in existence by having been promulgated or implemented.

The Committee further recognizes that the requirements under sections 301, 302, 306, 307, 308, 316 and 403 will not all be promulgated immediately upon enactment of this bill. Nevertheless, it would be unreasonable to delay issuing of permits until all the implementing steps are necessary. Therefore, subsection (a)(2) provides that prior to the taking of the necessary implementing actions relating to all such requirements, the Administrator may issue permits during this interim period with such conditions as he determines are necessary to carry out the provisions of this Act. Thus, the new permit program may be initiated without undue delay upon enactment of this Act.

Subsection (a)(2) requires the Administrator to prescribe conditions for these permits to assure compliance with the requirements of subsection (a)(1), including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

Subsection (a)(3) provides that the Administrator's permit program and the permits he issues will be subject to the same terms, conditions, requirements as apply to a state permit program and permit issued under subsection (b).

Subsection (a)(4) provides that all permits for discharges into navigable waters issued under the Refuse Act shall be deemed to be permits issued under this title (sections 402 and 404) and permits issued under this title shall be deemed to be permits issued under the Refuse Act.

Subsection (a)(5) prohibits the issuance of any further permits under the Refuse Act. Any pending application for a permit under the Refuse Act will be considered to be an application for a permit under this section.

The Committee notes that considerable effort and moneys have been expended by applicants under the Refuse Act permit program. It should not be necessary to resubmit all applications. Applications which have been addressed to the Corps of Engineers will, under this provision, be considered to be addressed to the Administrator.

Subsection (a)(5) further provides that the Administrator may authorize a State, which he determines has the capability of administering a permit program, to issue permits for the discharges into the navigable waters within the jurisdiction of such State (but not in the contiguous zone or the ocean). This authority may be exercised only during the period beginning on the date of enactment of this bill and ends either on the 19th day after the date of the first promulgation of guidelines required by section 304(h)(2) or the date of approval by the Administrator of a permit program for such State under subsection (b), whichever date occurs first. Each permit granted during this interim period shall be subject to whatever conditions the Administrator determines are necessary to carry out the provisions of this Act. Moreover, no permit may be issued during this interim period if the Administrator objects to its issuance.

Subsection (b) provides the procedure whereby the Governor of a State desiring to administer its own permit program for discharges into the navigable waters within its jurisdiction may submit its program to the Administrator. The Administrator must approve the sub-

mitted program unless he determines that adequate authority does not exist to carry out specified requirements of the Act.

The Committee considered extensively the proposition that all the permits issued by the States ought to be subject to review and possible veto by the Administrator. During the Committee's hearings, the Governors and other representatives of the States, almost unanimously, stressed the need to put the maximum responsibility for the permit program in the States. They deplored the duplication and second guessing that could go on if the Administrator could veto the State decisions. The Committee believes that the States ought to have the opportunity to assume the responsibilities that they have requested. If, however, a State fails to carry out its obligations and misuses the permit program, the Administrator is fully authorized under subsection (c)(3) of this section to withdraw his approval of a State program.

The Committee has included a provision in subsection (b) that any permit program administered by a State must insure that any other State whose waters may be affected by the issuance of a permit have an opportunity to submit written recommendations with respect to the permit application. If any part of the recommendations are not accepted by the permitting State, the affected State and the Administrator must be notified in writing of its failure to accept such recommendations together with its reasons for so doing. Subsection (d)(2) provides that no permits shall issue if the Administrator within 60 days of his notification objects to the issuance of such permits. The committee has included this procedure to protect States which might otherwise be affected by the issuance of a permit in a second State. This is similar to the safeguards given to States in the certification procedure under section 401. However, since permits granted by States under section 402 are not Federal permits—but State permits—the certification procedures are not applicable.

Subsection (c)(1) provides that not later than 90 days after the date on which a State has submitted a program pursuant to subsection (b), the Administrator shall suspend the Federal permit program authorized under subsection (a) unless he finds the proposed State permit program does not satisfy the requirements of subsection (b) or the guidelines issued under section 304(h)(2).

Subsection (c)(2) requires that any State permit program must at all times be in accordance with section 402 and the section 304(h)(2) guidelines.

Subsection (c)(3) provides that whenever the Administrator determines after public hearings that a State is not administering a program in accordance with this section, he shall notify the State. If corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of the State permit program.

Subsection (d)(1) provides that each State shall transmit to the Administrator a copy of each permit application received by the State and give him full information on each action they propose to take.

Subsection (e) authorizes the Administrator to waive the requirements of subsection (d) at the time he approves a State permit program—for any category of point sources within the State.

Subsection (f) requires the Administrator to promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) in any State with approved State permit programs.

Subsection (g) provides that the Administrator or any State may not issue a permit for any point source unless the permit assures the maintenance or enhancement of the quality of any affected waters.

Subsection (h) provides that 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 Transportation establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

Subsection (i) provides that if any condition of a permit for discharge from a publicly owned treatment works is violated the State or the Administrator, as appropriate, 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 the treatment work prior to the finding that the condition was violated.

Subsection (j) provides that nothing in section 402 shall be construed to limit the authority of the Administrator to take action pursuant to section 309.

Subsection (l) provides that compliance with a permit issued pursuant to section 402 shall be considered to be compliance for purposes of sections 309 and 505, with section 301, 302, 306, 307, 316 and 403, except any standard imposed upon section 307 for a toxic pollutant injurious to public health. The purpose of this provision is to assure that the mere promulgation of any effluent limitation or other limitation, a standard, or a thermal discharge regulation, by itself will not subject a person holding a valid permit to prosecution. However, once such a requirement is actually made a condition of the permit, then the permittee will be held to comply with the terms thereof.

Subsection (l) further provides that until January 1, 1976, in any case where a permit for discharge has been applied for pursuant to section 402, but final administrative disposition of the application has not been made, and the discharge is not in violation of any applicable water quality standards under subsections (a) and (b) of section 303, and any applicable regulation under section 316, the discharge shall not be in violation of this Act or the Refuse Act of 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the applicant's failure to furnish information reasonably required or requested in order to process the application.

The Committee notes that although subsection (a)(5) would discontinue further permits being granted under the Refuse Act permit program, no direct amendments have been made either to the Refuse Act or the other enforcement provisions of the River and Harbor Act of 1899. Thus, discharge from a source which does not have a permit under section 402 or 404 would still be subject to the provisions of the Refuse Act.

The Committee further intends that as a minimum any discharge which would be subject to the Refuse Act of 1899 would be subject to the provisions of Title IV.

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Section 403—Ocean discharge criteria

Section 402 provides that no permit under section 402 for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established by the Administrator except in compliance with the guidelines.

The requirement of subsection (d) of section 402 (pertaining to controversies between States) may not be waived in the case of permits for discharges into the territorial sea.

The Administrator shall, within 180 days after enactment of this bill, 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 in the effect of disposal of pollutants on human health and welfare, on marine life, and on esthetic, recreational, and economic values as well as guidelines for determining the persistence of the pollutant and other possible locations for its disposal.

Where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines the Administractor shall not issue a permit under section 402 of this Act.

Section 404—Permits for dredged or fill material

Section 404 authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that the discharge is not unreasonable.

In making this determination the Secretary shall apply the guidelines promulgated pursuant to section 403(c)(1) together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States which a denial of a permit request would have. In applying the guidelines established by the Administrator, the Secretary should consult with the Administrator and give due consideration to his views and recommendations.

The Secretary may issue no permits which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In referring to "critical areas," the types of areas the Committee has in mind are shellfish beds, breeding or spawning areas, highly susceptible resort beaches, and similar areas. The language of the section makes it clear that this action to create in effect, "prohibited areas" for discharging certain materials is to be used with circumspection. Prior to designating "prohibited areas," it is intended that the Administrator consult with the Secretary of the Army if the banned materials concern the Secretary's permit program. In establishing criteria for dumping, the Administrator is required to consider economic factors and these in turn would be taken into account in the designation of recommended sites for discharging or prohibited sites or times for discharging.

However, the Secretary upon certification that there is no economically feasible alternative reasonably available, will not be bound by the determination of the Administrator.

In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regu-

lations to govern the discharged or fill material into the navigable waters which shall require the application to these projects of the same criteria, factors to be evaluated, procedures, and requirements which are made applicable to the issuance of permits under subsections (a) and (b).

The Committee expects that until such time as economic and feasible alternative methods for disposal of dredge material are available, no arbitrary of unreasonable restrictions shall be imposed on dredging activities essential for the maintenance of interstate and foreign commerce, and that, consistent with the intent of this Act, the Committee expects the disposal activities of private dredgers and the Corps of Engineers will be treated in a similar manner.

The Committee further notes that under section 404 the Secretary of the Army shall have final decision-making responsibility and he shall not abdicate this responsibility to any other agency. For example, after consultation with the Administrator, the Secretary can override the Administrator's designation if he determines that it is not economically feasible to use the designated site.

It is expected that the Secretary shall act promptly on dredging permits essential for the maintenance of interstate commerce because of the seasonal nature of dredging and the need to preschedule scarce dredging equipment. The Committee expects that the Secretary will act on the permit applications usually within 30 days after notice and opportunity for public hearings.

Finally, the shift in emphasis of this legislation from water quality standards to effluent controls does not obviate the need for temporary turbidity standards for dredging activities.

Consequently, the Committee expects the Administrator to develop and issue to the States criteria providing for the establishment of standards for temporary turbidity resulting from dredging and disposal of dredge material, and to take such other action as is necessary in establishing effluent limitations to assure continuation of dredging essential to our Nation's waterborne transportation.

TITLE V—GENERAL PROVISIONS

Section 501—Administration

This section continues, with conforming language changes, the provisions of section 22 of the existing law.

A new subsection (f) is added which allows EPA, upon the request of a State Water Pollution Control Agency, to detail employees to assist the State agencies in carrying out the provisions of this legislation.

Section 502—General definitions

The section includes definitions for the following terms:

(1) State Water Pollution Control Agency
(2) Interstate Agency
(3) State
(4) Municipality
(5) Person
(6) Pollutant
(7) Pollution

(8) Navigable Waters
(9) Territorial Seas
(10) Contiguous Zone
(11) Ocean
(12) Effluent Limitation
(13) Discharge of a Pollutant and Discharge of Pollutants
(14) Toxic Pollutant
(15) Point Source
(16) Biological Monitoring
(17) Thermal Discharge
(18) Discharge

One term that the Committee was reluctant to define was the term "navigable waters." The reluctance was based on the fear that any interpretation would be read narrowly. However, this is not the Committee's intent. The Committee fully intends that the term "navigable waters" be given the broadest possible constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes.

The term "pollutant" as defined in the bill includes "radioactive materials." These materials are those not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated pursuant to that Act. "Radioactive materials" encompassed by this bill are those beyond the jurisdiction of the Atomic Energy Commission. Examples of radioactive material not covered by the Atomic Energy Act, and, therefore, included within the term "pollutant," are radium and accelerator produced isotopes.

It is the intent of the Committee that the exclusion from the term "pollutant" relating to the injection of water, gas, or other materials into wells applies only to the properly executed injection of materials into wells to stimulate the primary, secondary, or subsequent production of crude oil or natural gas, and to the properly executed disposal in wells of brines derived in association with the production of crude oil or natural gas, with appropriate precautions taken to assure that such injection or disposal does not lead to, or make substantially more likely, the degradation of usable water resources. For such exclusion to be effective, the State is required (1) to approve the well used either to facilitate production or for disposal purposes, and (2) to make a determination, based on sufficient investigation and evidence, that such degradation has not taken place and has not been or will not be made substantially more likely as a result of such injection or disposal.

It should be noted that the term "thermal discharge" is defined as the introduction of water into the navigable waters or the waters of the contiguous zone at a temperature different from the ambient temperature of the receiving waters. It is intended that the term "thermal discharge" and the term "discharge of a pollutant" (and "discharge of pollutants") are mutually exclusive.

Section 503—Water Pollution Control Advisory Board

This section continues, with conforming language changes, the provisions of section 9 of the existing law. The per diem allowance for Board members while attending conferences or meetings of the Board is raised from $50 per diem to $100 per diem.

Section 504—Emergency power

Section 504 provides that notwithstanding any other provision of this legislation, 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, may bring suit on behalf of the United States. The appropriate district court could immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to the pollution or to take other action as may be necessary.

This section is similar to section 303 of the Clean Air Act.

Section 505—Citizen suits

The Committee was impressed during the hearings with the intensity of feeling generated by the apparent growing reliance on legal actions as a means of controlling pollution and environmental problems. The Committee listened carefully to exponents of the various doctrines justifying an emerging role for citizen suits. There can be little question based on the increasing number of public works projects which are being litigated that individual citizens and environmental groups have turned and are continuing to turn to legal action as a remedy for what they consider to be errors on the part of the Government. They are no longer willing to rely on the administrative process to work but instead have taken the initiative in having the forum for decision-making be in the court room.

The Committee appreciates the growing citizen awareness of their rights to utilize the courts.

However, the Committee is also concerned that this movement to the courts may have been brought about by inadequate recognition on the part of the administrative agencies as to the proper role of the public. Time and time again during the hearings evidence was submitted as to decisions made by Federal agencies without appropriate consultation with the State and local governments or the general public. And what is true about the Federal agencies is also true of the State and local governmental agencies. It is with the understanding that steps are necessary to restore the public's confidence and to open wide the opportunities for the public to participate in a meaningful way in the decisions of government, that the Committee has included in the proposed legislation various steps to arrive at this goal. First, the Committee has included provision for public participation in the development, revision and enforcement of any regulation, standard, or effluent limitation established by the Administrator or any State under this Act. Not only is this specifically required in section 101(a) but the Administration is directed to encourage this participation. Second, the Committee has included provision in most instances where a determination is to be made by the administrator or the State, that such determination shall be made as p art of a public record. Third, a tough and meaningful provision has been included on Federal enforcement (section 309) to insure that the Administrator is not limited in protecting the rights of the public. Fourth, judicial review of the Administrator's actions is provided for in section 509(b). Fifth, the Committee has incorporated into this legislation this section (505) specifically dealing with citizen suits.

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Section 505 closely follows the concepts utilized in section 304 of the Clean Air Act. However, this legislation authorizes the courts to impose civil penalties, as well as injunctive relief. Section 505 would specifically provide that a Governor of a State may bring a suit against the Administrator to compel him to seek abatement of pollution which originates in another State and affects the Governor's State. Another major distinction is that this bill specifically uses and defines the term "citizens".

Subsection (a) of section 505 authorizes a citizen to bring a civil action against any person, including the United States and other government agencies to the extent permitted by the Constitution, who is alleged to be in violation of effluent standards or limitations or an order issued by the Administration with respect to such standard or limitation. Actions are also permitted against the Administrator for alleged failure to perform mandatory acts or duties.

The district courts are granted jurisdiction to enforce the effluent standards or limitations, orders of the Administrator, and to order the Administrator to perform his functions. In addition, the courts are authorized to apply appropriate civil penalties under section 309(d). The penalties imposed would be deposited as miscellaneous receipts in the treasury and not be recovered by the citizen bringing the suit.

Subsection (b) provides that prior to commencing any action in the district courts for a violation of an effluent standard or limitation or any order of the Administrator or State, the complainant must have provided the violator, the Administrator and the State with 60 days notice. If an abatement action is pending and is being diligently pursued in a United States or State court, the action permitted under subsection (a) cannot be commenced but any citizen may intervene as a matter of right.

However, no delay following notice to the Administrator is required where there is an alleged violation of sections 301, 302, 306 and 307, or an alleged violation of a section 402 permit issued by the Administrator, or an alleged violation of an order issued by the Administrator under section 309.

Subsection (b) requires the Administrator to promulgate regulations establishing the appropriate manner in which the notices are to be furnished. These regulations should be issued as soon as possible after enactment of this legislation and, although not placing unnecessary or impossible burdens on complainants, should require information regarding the identity and location of the alleged pollutor, a brief description of the activity alleged to be in violation, the provision of law alleged to be violated and, if appropriate, the specific function the Administrator is alleged to have failed to perform.

Subsection (c) provides that actions respecting a violation of a discharge source of an effluent standard or limitation or an order are to be brought in the judicial district in which the source is located. The subsection further establishes that, in any action, the Administrator may intervene as a matter of right.

Subsection (d) allows the court to award to any party the costs of litigation, including reasonable attorney and expert witness fees, whenever the court considers this to be appropriate. Concern was expressed

during the hearings that inclusion of a "citizen suit" provision would lead to frivolous and harassing legal actions. By permitting the court to award costs of litigation whenever it believes that it is appropriate to do so, the Committee is satisfied that defendants who were subjected to needless harassment or frivolous suits may be reimbursed for their expenses. This should have the effect of discouraging abuse of the "citizen suit" provision.

Subsection (d) permits the court to require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure in those cases where a temporary restraining order or preliminary injunction is sought.

Subsection (e) provides that the right of persons (or class of persons) to seek enforcement or other relief under any statute or common law is not affected.

Subsection (f) defines the term "effluent standards or limitation under this Act" as meaning for the purposes of this section (1) effective July 1, 1973, an unlawful act under section 301(a); (2) an effluent limitation or other limitation under section 301 or 302; (3) standard of performance under section 306; (4) prohibition, effluent standard or pretreatment under section 307; (5) certification under section 401; or (6) a permit or condition thereof issued under section 402, which is in effect under this Act.

The Committee notes that the limitation of the effective date of citizens suits for unlawful acts under section 301 to July 1, 1973, provides suitable time for the Administrator and the States to develop fully, and execute the authority contained in section 402. However, the use of this date is not meant to override the specific provisions of section 402 (l).

Subsection (g) defines the term "citizen" to mean (1) a citizen of the geographic area having a direct interest which is or may be affected and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

The Committee's definition of the term "citizen" is based upon the "private attorney general" doctrine as developed in the cases of Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F. 2d 608 (2 Cir. 1965), South Hill Neighborhood Association v. Romney, 421 F. 2d 454, 1969. The Committee believes this provides an open door for those who have legitimate interests in the courts, and encourages more meaningful participation in the administrative processes.

Subsection (h) provides that a Governor of a State may bring a civil action under subsection (a) against the Administrator for an alleged failure to enforce an effluent standard or limitation, the violation of which is occurring in another State and causing either an adverse effect on the public health or welfare or a violation of any water quality requirement in the Governor's State.

Section 506—Appearance

Section 506 provides that the Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this legislation to which the Administration is a party. Unless the Attorney General notifies the

Administrator within a reasonable time that he will appear in a civil action, EPA attorneys shall appear and represent the United States in these civil actions.

The Committee wishes to stress that criminal actions involving the United States should not be handled by attorneys other than those appointed by the Attorney General.

Section 507—Employee protection

Section 507 is patterned after the National Labor Management Act and a similar provision in Public Law 91–173 relating to the health and safety of the Nation's coal miners. Under this section employees and union officials could help assure that employers do not contribute to the degradation of our environment.

Any worker who is called upon to testify or who gives information with respect to an alleged violation of a pollution control law by his employer or who files or institutes any proceeding to enforce a pollution control law against an employer may be subject to discrimination.

The section would prohibit any firing or discrimination and would provide an administrative procedure under which the employee or his representative could seek redress for any violation of this prohibition. The Secretary of Labor would investigate such charges and issue findings and a decision which would be subject to judicial review. If the Secretary should find a violation, he would issue orders to abate it, including, where appropriate, the rehiring of the employee to his former position with back pay. Also, the person committing the violation could be assessed the costs incurred by the employee to obtain redress.

This provision would safeguard the rights of employees, but it should not encourage employees to frivolously allege violations since the employee may have to pay the costs of the proceedings unless the violation is proved.

In order to avoid abuse of the protection afforded under this section the Committee has added a provision which would deny its applicability to any employee who, without direction from his employer, deliberately violates or wilfully contributed to a violation of any standard, requirement or regulation under the Act.

Section 508—Federal procurement

Section 508, which is similar to section 306 of the Clean Air Act, provides that persons convicted of any offense under section 309(c) of this legislation shall be ineligible to enter into Federal contracts until the Administrator certifies that the violation has been corrected. The President is required to issue an order directing Federal agencies (1) to assist in the implementation of this Act, and (2) to establish sanctions for non-compliance. Authority is provided to exempt contracts, loans and grants in the paramount interest of the United States from such sanctions for reasons of national security. Such exemptions and other effort to implement the Act are to be reported to the Congress.

Section 509—Administrative procedure and judicial review

Section 509 authorizes the Administrator to issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, in connection with any determination

under section 301(b)(3)—(extensions of the 1976 date for point source effluent limitations)—or to obtain information under section 305 (water quality inventory).

Subsection (b) provides for judicial review of the Administrator's action in promulgating any standard of performance under section 306; in making any determination under section 306 (b)(1)(C), in promulgating an effluent standard, prohibition, or treatment standard under section 307; in making any determination as to a State permit program submitted under section 402 (b)(5); in approving or promulgating any effluent limitation or other limitation under sections 301, 302, or 306; and in issuing or denying any permit under section 402. The judicial review may be brought by any interested person in the district court of the United States for the district in which the person resides or transacts business. Application for review must be filed within 30 days from the date of the Administrator's action, or after that date only if the application is based solely on grounds which arose after the 30th day.

Subsection (c) provides that in any judicial proceeding brought under subsection (b) in which review is sought of a determination of the Administrator required to be made on the record after notice and opportunity of hearing, if any party applies to the court for permission to bring forward additional evidence and satisfies the court that the additional evidence is pertinent and there were reasonable grounds for failure to offer the evidence during the administrative proceedings, the court may order the Administrator to take the evidence into consideration in reevaluating his determination. The Administrator may subsequently modify his findings as to the facts or make new findings, and he shall file the modified or new findings, and his recommendations for the modification or setting aside of his original determination.

The Committee believes with the number and complexity of administrative determinations that the legislation requires there is a need to establish a clear and orderly process for judicial review. Section 509 will ensure that administrative actions are reviewable, but that the review will not unduly impede enforcement.

The Committee further notes that the inclusion of section 509 is not intended to exclude judicial review under other provisions of the legislation that are otherwise permitted by law.

Section 510—State authority

Section 510 retains the right of any State or interstate agency to adopt or enforce any standard or limitation as to discharges of pollutants or any requirement as to control or abatement of pollution which is not less stringent than those required or established under the Federal Water Pollution Control Act, except as otherwise expressly provided in the Act.

The Committee considers section 510 to be of extreme importance in assuring the States of the right to adopt or enforce provisions at least as strict as those established in this legislation. Thus, the Committee rejected in most instances suggestions for preemption by the Federal Government and preempted the States only where the situation warranted it based upon the urgent need for uniformity such as in section 312(f) relating to marine sanitation devices.

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Section 511—Other affected authority

Subsection (a) of section 511 preserves the authority of other Federal laws which are consistent with this legislation including the authority of the Secretary of the Army to maintain navigation and his authority under the Rivers and Harbors Act of 1899. In the case of the dredge and fill activities permitted under section 404 of this legislation, a certification under section 401 shall be conclusive as to the effect on water quality. Also subsection (a) provides that this legislation will not affect or impair the provisions of any treaty of the United States.

Subsection (b) provides that the consultation and coordination requirements of the Fish and Wildlife Coordination Act shall apply only to the provisions of section 306, the publication of information under section 304 and the establishment of guidelines under section 403 but not to the imposition of any specific effluent limitation on a particular source.

The Committee does not intend by this provision to decrease or limit the consideration of fish and wildlife which must be accorded each and every action taken under the Federal Water Pollution Control Act. The intent of this provision is instead directed to assuring that coordination will be required at the most appropriate time, that is, when guidelines, standards, limitations, and regulations are being promulgated.

Subsection (c) provides that discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (dealing with discharges into Lake Michigan) and the Supervisory Harbors Act of 1888 (dealing with discharges into the Baltimore, New York, and Hampton Roads Harbors) will be regulated under the Federal Water Pollution Control Act. Therefore, the 1910 and 1888 Acts would apply only to discharges affecting navigation or anchorage.

Subsection (d) provides that the requirements of the National Environmental Policy Act of 1969, Public Law 91–190, as to water quality considerations shall be deemed to be satisfied (1) with respect to any Federal license or permit for the construction of any activity by a section 401 certification and (2) with respect to any Federal license or permit for the operation of any activity by a section 401 certification and the issuance of a Refuse Act permit or a section 402 permit.

Subsection (d) is essentially identical to section 510(d) of S. 2770, the Federal Water Pollution Control Act Amendments of 1971, as passed by the Senate on November 2, 1971. The provision was offered and accepted as an amendment on the floor of the Senate by Senator Howard H. Baker. The only differences between this provision in this bill and the Senate bill are editorial to conform the proposal to the terminology used in the House bill.

In offering the amendment, Senator Baker stated:

> "Mr. President, the purpose of this amendment is to clarify the relationship between the Federal Water Pollution Control Act, as this bill would amend it, and the National Environmental Policy Act of 1969.
>
> Section 21(b) of the existing Federal Water Pollution Control Act provides that any Federal agency charged with the responsibility of issuing a Federal license or permit

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for the conduct of any activity which may result in any discharge into the navigable waters of the United States must, prior to the issuance of such license or permit, receive certification from the State in which such activity will be conducted that the activity will be conducted in a manner that will not violate water quality requirements. Section 21(b), with minor changes, appears as section 401 of the pending bill. S. 2770.

The National Environmental Policy Act of 1969—Public Law 91-190—vests in any Federal agency having jurisdiction over any action significantly affecting the quality of the human environment as affirmative duty to weigh environmental impact in determining whether a given action should proceed and, if so, how such an action can minimize its impact on the environment. The issuance of a license or permit by any Federal agency, when the activity licensed or permitted results in a discharge into the Nation's waters, is clearly one of the kinds of actions embraced by the National Environmental Policy Act—NEPA.

In July of this year the U.S. Court of Appeals for the District of Columbia handed down a far-reaching, and as yet unreported, decision in what has become known as the "Calvert Cliffs" case (U.S.C.A., D.C., F. 2d, July 23, 1971). In its opinion the court said, in part:

NEPA mandates a case-by-case balancing judgment on the part of Federal agencies in each individual case, the particular economic and technical benefits of planned action must be assisted and then weighed against the environmental costs; alternatives must be considered which would affect the balance of values.

I wholly concur with the court's view of the affirmative mandate imposed by NEPA.

It seems to me most desirable, however, that each Federal permitting and licensing agency not be required by the operation of NEPA to develop special expertise vested by the Congress in other agencies. It was, in fact, to avoid this kind of duplication that the Congress enacted section 21(b) of the Federal Water Pollution Control Act in 1970. As I said earlier, section 21(b) with some modification, appears as section 401 of the pending bill.

My amendment would make it clear that for the purposes of making the kind of "balancing judgment" required by NEPA, each individual Federal permitting and licensing agency would not be required to develop its own special expertise with respect to water quality considerations. My amendment should not in any way be construed to mean that water quality considerations do not play a role in such a "balancing judgment." On the contrary, where pertinent, water quality considerations must be considered by any agency when it decides, under the NEPA mandate, whether it is in the public interest to grant a license or permit and, if so, under what conditions and stipulations.

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However, my amendment would relieve any such permitting or licensing agency of the responsibility for determining on its own the standard of performance or effluent limitation that must be applied to the activity under consideration for a license or permit. That determination would be made by a State or by EPA pursuant to sections 401 and 402 of the pending bill. Certification pursuant to section 402 would discharge a licensing or permitting agency from any further consideration as to what specific degree of effluent control was required with respect to water quality considerations for the activity under consideration."

The Committee notes that subsection (d) is limited to section 401 certifications and does not include certifications issued pursuant to section 21(b) of the existing law.

The Committee further notes that a recent court decision Kalur v. Resor (3ERC 1458, D.D.C., 1971) held that environmental impact statements under NEPA must be filed for each Refuse Act permit application. If it is determined after enactment of this legislation that section 102 of NEPA is applicable to section 402 permits, the Administrator may be required to prepare environmental impact statements prior to his issuing such a permit.

Section 512—Separability

Section 512 continues with conforming language changes the provisions of section 25(d) of the existing law.

Section 513—Labor standards

Section 513 continues, with conforming language changes the provisions of Section 8(g) of the existing law.

Section 514—Agricultural facilities

The production of milk and other agricultural products normally requires an operator first to obtain a license from the health authority regulating such operations within his State or locality. The health codes generally require removal of all animal wastes on a regular basis so as to avoid the accumulation of manure and thereby minimize the breeding of insects and rodents.

It has been brought to the Committee's attention that in some cases the requirement for installation of waste-holding facilities on properties used for agricultural operations will place the operator in violation of these related health codes, which require the removal of all animal wastes from the immediate area in use.

The purpose of section 514 is to assure that before an agricultural operator will be required to install special waste treatment facilities, the Administrator shall certify that the construction and operation of such proposed facilities will not result in placing the operator in violation of other local, State, or Federal health regulations.

Section 515—Effluent Standards and Water Quality Information Advisory Committee

In order to ensure that effluent limitations and standards criteria issued under this bill are based on the maximum amount of scientific and technical information, section 515 establishes an Advisory Com-

mittee of competent and scientifically qualified independent individuals to participate in the development of information based on which the Administrator would make regulatory decisions.

The Advisory Committee authorized by this section would consist of 9 members appointed by the Administrator of the Environmental Protection Agency serving on a full time basis for a term of 4 years. They would be selected from the scientific community on the basis of their capabilities to provide scientific and technical information required for the standards and criteria developed under this Act. Strict conflict-of-interests provisions would apply to the members of this committee.

Six months before the publication of any guidelines for effluent limitations, proposed standards of performance for new sources, or proposed toxic effluent standards, the Administrator would notify the Advisory Committee of his intent to propose regulations in these areas. Wthin 4 months of such notice, the Advisory Committee would provide the Administrator with all the scientific and technical information related to the subject matter which it has developed. To prepare such information, the Advisory Committee may hold a public hearing.

The information which the Advisory Committee provides to the Administrator would constitute a part of the administrative record of the Administrator's rule-making in these areas. In developing this information the Advisory Committee should utilize the services of other Federal agencies including the United States Geological Survey.

Although section 515 includes provision for the establishment of the Advisory Committee and provides for a relatively long tenure of service (4 years), it is not intended that the Advisory Committee be retained on a long-term basis.

Accordingly, subsection (a)(1) very specifically provides that the Chairman and the members must be appointed by the Administrator within 60 days of enactment of this legislation.

Section 516—Reports to Congress

Subsection (a) of section 516 provides that the Administrator shall submit to the Congress, within 90 days after the start of each session, a report on measures taken toward implementing the objectives of the Federal Water Pollution Control Act.

Subsection (b), with conforming language changes, continues section 26 of the existing law. In addition to the previous requirements, the Administrator must submit 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. The subsection further provides that whenever the Administrator requests and receives a cost estimate from a State, he shall furnish copies of the estimate together with the detailed estimate to Congress. The cost estimate required under this subsection will be utilized in determining the allotments pursuant to section 205.

Section 517—General authorizations

Section 517 authorizes appropriations in the amount of $250,000,000 for Fiscal Year 1973, and $300,000,000 for Fiscal Year 1974, and $250-

000,000 for Fiscal Year 1975 to carry out the provisions of the Federal Water Pollution Control Act other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 206, 207, 208(f), 208(h), 209, 304, 311(c), 311(d), 311(i), 311(k), 311(l), 314, 315, and 317. The excepted sections have additional separate authorizations for appropriations.

Section 518—Short title

Section 518 cites titles I through V as "The Federal Water Pollution Control Act".

Section 3—Authorizations for Fiscal Year 1972

The authorization for programs in sections 5, 6, 7 and 8 of the existing Federal Water Pollution Control Act as provided for in the Clean Water Restoration Act of 1966 (Public Law 89–753) expired on June 30, 1971. Subsequently, additional limited authorizations for appropriations for these sections were included in Public Laws 92–50, 92–137, and 92–240.

Section 3 provides an additional authorization of $6,000,000 for section 5(n) relating to research and $350,000,000 for section 8 relating to the construction grant program. These authorizations for appropriations would be for the purpose of carrying out these programs under sections 5(n) and 8 of the Federal Water Pollution Control Act as it presently exists and would complete the funding requirements for these programs for fiscal year 1972. It should be noted that the enactment of this section will not require the appropriation of any additional moneys. Public Law 92–73, the Agriculture-Environmental and Consumer Protection Act, 1972, included the necessary moneys for this program subject to later authorizations. Section 3 is the authorization to utilize the funds previously appropriated.

Subsection (c) provides that the Federal share of all grants made under section 8 of the existing Federal Water Pollution Control Act from sums authorized in this section and in Public Laws 92–50, 92–137, and 92–240 will be at the rate required by section 202 of the Federal Water Pollution Control Act (see section 2, title II of this legislation). Thus, a recipient of a grant would receive either 60 percent or 75 percent Federal assistance (depending on State participation).

Section 4—Savings Provision

Section 4 provides that no actions commenced by or against the Administrator in the carrying out of his responsibilities under the Federal Water Pollution Control Act as it presently exists shall abate because of the amendments to the Federal Water Pollution Control Act in section 2 of this legislation. All rules, regulations, certifications, and other actions taken under the existing Federal Water Pollution Control Act shall remain in effect until modified or rescinded.

Subsection (c) of section 4 provides that the existing Federal Water Pollution Control Act will remain applicable to all grants made from fiscal year 1972 funds (and prior year funds), including increases in the monetary amount of any such grant which may be paid from fiscal year 1973 funds (or later year funds). An exception to this would be made for the higher cost sharing permitted under section 202 of the Federal Water Pollution Control Act as amended by section 2 of this bill.

The Committee notes that there may be publicly owned treatment works presently under construction and receiving Federal assistance under section 8 of the existing law where it may be later determined that the Administrator underestimated the eligible costs of construction. Subsection (c) would permit the Administrator to pay the grantee the remaining eligible amount from Fiscal Year 1973 (or later year) funds. However, the payment would be based on the applicable cost-sharing arrangements of section 8 and not the higher amounts of section 202. The grants made from Fiscal Year 1972 funds being eligible for the higher percentages of section 202 would, of course, not be limited to the amounts specified in section 8 of the existing law.

Section 5—Oversight Study

Section 5 directs the Comptroller General to study and review the Federal and Federally assisted research, pilot and demonstration programs related to prevention and control of pollution. The Comptroller General is to assess the conflicts between, and the coordination and usefulness of the programs and to submit a report to the Congress by October 1, 1973.

The ultimate purpose of this study is to identify and to weed out unnecessary and duplicative work, as well as to strengthen those programs which require additional attention.

Section 6—International Trade Study

Section 6 directs the Secretary of Commerce to conduct an in-depth study aimed at measuring and assessing the problems vis-a-vis foreign competition likely to arise with the type of pollution abatement measures being undertaken in this country.

Such a study would be conducted in consultation with other governmental agencies, industries and interested parties both at home and abroad. Foreign pollution control programs would be evaluated and an industry-by-industry index of comparative operational and investment costs would be constructed. The objective would be to learn what types of advantages might accrue to foreign competition, particularly those countries where pollution control efforts are presently minimal or nonexistent. Recommendations for equalizing such competitive disadvantages would also be prepared and submitted.

Because of the urgency of the receipt of such information, initial study results would be submitted to the Congress within 6 months following enactment of this legislation. Subsequent reports would be submitted at least annually thereafter.

Section 7—International Agreements

Section 7 directs the President to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform control over the discharge of pollutants into the oceans.

Section 8—Loans to Small Business Concerns for Water Pollution Control Facilities

Section 8 would add a new subsection (g) to section 7 of the Small Business Act to authorize loans to assist a small business concern in making additions to or alterations in its equipment, facilities, or methods of operating so as to meet water pollution control requirements of

the Federal Water Pollution Control Act. In order to be eligible for these loans the Administrator of the Small Business Administration would have to find that without this assistance the small business concern is likely to suffer substantial economic injury.

The loans would be authorized for small businesses as defined by the Small Business Act, which means a firm independently owned and operated and not dominant in its field.

The Environmental Protection Agency, or where appropriate under the Federal law, a State, would be required to certify that the applicant's waste treatment facility or process change would be necessary and adequate to comply with requirements under the Federal Water Pollution Control Act.

The provision authorizes $800,000,000 to be appropriated to increase the S.B.A.'s disaster loan fund by this amount and requiring that these funds be spent solely for the water quality loans and loan guarantees.

As consistent with SBA section 7 authority and regulations, the loans could be for up to $500,000 or 100 percent of the project's cost, whichever is less, with a maximum duration of 30 years. The interest would be the average cost to the U.S. Treasury of making the loans, minus 2 percentage points—currently. This would translate into a rate of about 4 percent.

The Committee notes that the $800,000,000 authorized by this section is to be used exclusively for purposes outlined above. As repayments are received, they should be separately accounted for and used only for the purposes of subsection (g)(1).

Section 9—Environmental Court

Section 9 directs the President, acting through the Attorney General, to make a study of the feasibility of establishing a separate court or court system having jurisdiction over environmental matters and to submit a report on the results of the study together with recommendations to the Congress within 1 year after the enactment of this legislation.

The Committee believes that this study will be useful in determining whether the time is now appropriate for the establishment of an environmental court. The increase in litigation on environmental matters, the detailed specialized legislation which has been enacted on this subject, the high degree of sophisticated technology involved in pollution control, and the increasing involvement of the judiciary in reviewing the beneficial and adverse effects of on-going programs may well justify a new environmental court.

Section 10—National Policies and Goals Study

Section 10 requires the President to make an investigation and to report the results to the Congress within 2 years of all national policies and goals heretofore established by law with the purpose of determining the relationship between these possibly competing policies and goals. This evaluation should take into account the available resources of the Nation. $5,000,000 is authorized for this study.

Section 11—Efficiency Study

Section 11 would require the President to make an investigation and report to the Congress within 270 days on ways and means of effec-

tively utilizing all of the resources, facilities, and personnel of the Federal Government in carrying out the purposes and objectives of the Federal Water Pollution Control Act.

The Committee believes that if there is to be a successful water pollution control program, all available resources and expertise in the Federal Government must be utilized. In recognition of this, the Committee has in this legislation assigned tasks to or authorized the Administrator of EPA to work with a number of Federal agencies such as the Coast Guard, the Corps of Engineers, and others. The purpose of this review is not to challenge or lessen the leadership of EPA in this field, but to determine where and to whom EPA may look for assistance.

Section 12—Environmental Financing

Section 12 authorizes the establishment of an Environmental Financing Authority under the supervision of the Secretary of the Treasury.

The Environmental Financing Authority, or EFA, will make a significant contribution to the program for a better environment by greatly facilitating the efforts of State and local governments to construct waste treatment facilities. This EFA would do by purchasing municipal waste treatment bonds which could not otherwise be sold on reasonable terms. To finance these purchases EFA would issue its own securities in the market.

EFA is essential to assure that no municipality in this country is denied the opportunity to see its bonds for the construction of waste treatment plants.

In order to help communities comply with the Federal Water Pollution Control Act there is a provision for Federal grant assistance to municipalities and other public bodies for the construction of waste treatment facilities. The non-Federal share of the project cost must be borne by the local and State governments involved. The local government share of the project cost is, in virtually all cases, raised through the sale of debt securities in the private market. Thus, even if the Federal grant share is increased, many projects could be delayed or cancelled because of a locality's inability to borrow.

The purpose of EFA is to assure that no municipality will be unable to participate in the Federal grant program because of an inability to market its bonds at reasonable rates.

EFA could not purchase any obligations unless the Administrator of the Environmental Protection Agency (1) has certified that the borrower is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (2) has approved the project as eligible for a waste treatment construction grant under the Federal Water Pollution Control Act; and (3) has agreed to guarantee timely payment of principal and interest on the obligations.

To avoid unnecessarily interfering with the market, the legislation provides an important safeguard: the interest rate at which EFA would lend would be set by the Secretary of the Treasury only after considering the current market yields on comparable Treasury or EFA securities outstanding in the private market as well as the market yields on municipal bonds. EFA would also be authorized to charge fees to cover its administrative costs and provide for reasonable contingency reserves.

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While it is expected to be a simple and costless operation, EFA could contribute significantly to the success of the whole waste treatment facility program. With EFA standing ready to assure a market, no essential project need be canceled or delayed because the State or local government is unable to market its bond issue on reasonable terms.

It has been argued that the need for EFA assistance to municipal borrowers has diminished because of the general improvement in bond market conditions since EFA was first proposed by the Administration in February 1970. While communities are certainly having much less difficulty in selling their bonds today, as compared to the crisis situation municipal borrowers faced 2 years ago, even in times of relatively favorable market conditions there are some communities that lack the size or credit standing necessary to support their bond issues at reasonable rates of interest. EFA would help these communities.

Also, as demonstrated in 1966 and in 1969, conditions in the municipal bond market can deteriorate rapidly. The construction of waste treatment facilities requires a great deal of planning, and the approval of interested groups at the Federal, State, and local levels is a time consuming process that may extend for several years. This process can be facilitated greatly by assurance in advance that when the project reaches the financing stage it will not be unduly delayed or cancelled because of changing bond market conditions. EFA would help provide that assurance.

Subsection (a) provides for section 12 to be cited as the "Environmental Financing Act of 1972."

Subsection (b) establishes the Environmental Financing Authority as an instrumentality of the United States subject to the general supervision and direction of the Secretary of the Treasury and authorizes the Authority to establish offices to conduct its business.

Subsection (c) states that the purpose of the Act is to assure that inability to borrow necessary funds in the market at reasonable interest rates does not prevent any State or local public body from carrying out a waste treatment works project receiving a grant from the Administrator of the Environmental Protection Agency.

Subsection (d) provides a 5-member Board of Directors consisting of the Secretary of the Treasury or his designee as Chairman and 4 others appointed by the President from the officers or employees of the Authority or of any Federal agency. The Board would meet at the call of the Chairman and would determine the general policies of the Authority. The Chairman would appoint the officers of the Authority.

Subsection (e) authorizes the Authority to purchase obligations issued by State and local public bodies to finance the non-Federal share of the cost of a waste treatment construction project. No purchase could be made unless the Administrator of EPA has certified that the seller is unable to obtain sufficient credit at reasonable rates of interest and unless the Secretary has guaranteed principal and interest payments on the obligation. No purchase could be made of obligations issued to finance projects, the permanent financing of which occurred prior to this Act. Interest rates on such purchases would be determined by the Secretary of the Treasury taking into consideration (1) current market yields on obligations of comparable maturity issued

by the Treasury or the Authority and (2) market yields on municipal bonds.

The Authority would charge fees to cover expenses and to accumulate reasonable reserves, and such fees would be included in project costs.

Subsection (f) authorizes appropriations to the Secretary of the Treasury to advance up to $100 million for initial capital to the Authority. The interest rate on advances would be not less than a rate determined by the Secretary of the Treasury taking into consideration current market yields on Treasury obligations. Interest payments could be deferred at the discretion of the Treasury.

Subsection (g) authorizes the Authority, with the approval of the Secretary of the Treasury, to issue its own obligations in the market. The Secretary of the Treasury could purchase such obligations, as authorized in appropriation acts. Purchases by the Secretary would be public debt transactions and would be at interest rates determined by him taking into consideration current market yields on outstanding Treasury obligations of comparable maturities.

Subsection (h) directs the Secretary of the Treasury to make annual payments to the Authority in the amount by which the Authority's interest expense exceeds its interest income.

Subsection (i) provides the Authority with general corporate powers.

Subsection (j) generally exempts the Authority and its income from all taxes except real and personal property taxes and taxes on the principal or interest on obligations issued by the Authority, which would be taxed to the same extent as obligations of private corporations.

Subsection (k) makes obligations issued by the Authority lawful investments, acceptable as security for all fiduciary, trust, and public funds, and exempt from SEC requirements.

Subsection (l) authorizes the Secretary of the Treasury to prepare, hold, and deliver obligations for the Authority on a reimbursable basis.

Subsection (m) requires the Authority to transmit to the President and Congress an annual report of its operations and activities.

Subsection (n) permits national banks to invest in or deal in obligations of the Authority.

Subsection (o) subjects the Authority to the budget and audit provisions of the Government Corporation Control Act in the same manner as they are applied to a wholly-owned Government corporation.

Subsection (p) provides a permanent indefinite appropriation to permit the Secretary of the Treasury to make interest payments to the Authority as required by subsection (h).

Section 13—Sex Discrimination

Section 13 provides that no person shall, because of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program receiving Federal assistance under the Federal Water Pollution Control Act Amendments of 1972, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section is to be enforced through agency provisions and rules similar to those already established under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and

will not prejudice or cut off any other legal remedies available to a discriminatee.

COSTS OF THE LEGISLATION

In accordance with rule XIII(7) of the Rules of the House of Representatives, the estimated costs to the United States which would be incurred in carrying out H.R. 11896 in fiscal year 1972 and in each of the following 5 fiscal years are as follows:

Fiscal year:	
1972	$356,000,000
1973	9,872,000,000
1974	7,045,000,000
1975	7,350,000,000
1976	----------
1977	----------
Total	24,623,000,000

Thus the total costs of H.R. 11896 to the United States would be $24,623,000,000.

The estimated costs are based on authorizations rather than on anticipated obligations or expenditures of funds. Where an authorization is stated without a fiscal year, it has been assigned to fiscal year 1973.

Of the above, $18,350,000,000 is authorized for construction of waste treatment works (section 207 and section 3(b)). The appropriations required for payment of the obligations authorized by this legislation for the construction of waste treatments are estimated as follows:

Fiscal year:	
1972	$350,000,000
1973	20,000,000
1974	250,000,000
1975	2,450,000,000
1976	5,000,000,000
1977	5,955,000,000
1978	3,250,000,000
1979	1,050,000,000
1980	50,000,000
Total	18,350,000,000

The estimate of cost of H.R. 11896, as reported, has been prepared by the Committee. No estimate of cost of the bill has been submitted by any government agency to the Committee.

AGENCY COMMENTS

The comments of the Office of Management and Budget and the Environmental Protection Agency on H.R. 11895 and H.R. 11896, as introduced as submitted to the Chairman of the Committee on Public Works are as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 13, 1971.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to respond to your request for views and comments on H.R. 11895 and H.R. 11896, identical bills to amend the Federal Water Pollution Control Act.

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Our views, comments, and recommendations follow in the sequence of the various titles and sections of the bills.

Title I—Research and Related Programs

Section 101. The general objective of the Act would be to "restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters." This objective is supported by specific policies and goals including:

1. elimination of pollutant discharges into navigable waters by 1985.
2. an interim 1981 goal of water quality suitable to support aquatic life and to permit recreation in and on the water.
3. prohibition of discharge of toxic pollutants in toxic amounts.
4. Federal grants for construction of waste treatment facilities, new regional waste management programs, and expanded research programs.

We do not support the new purpose of "general objective" that would be provided. The pursuit of natural integrity of water for its own sake without regard to the various beneficial uses of water in unnecessary, uneconomic, and undesirable from a social, economic, or environmental point of view.

We believe that the purpose of water pollution control is the achievement and protection of water quality for beneficial uses.

We also disagree with the nation-wide across-the-board application of both the "no discharge" goal and the interim 1981 goal. Neither of these goals allow for a legitimate range of State-designated beneficial uses, which EPA believes sets a more reasonable and achievable basis for a Federal-State water quality program.

The policy statement in the bills recognizes the primary role of the States in implementing the pollution control programs and the need to take action to promote control of international pollution.

EPA supports these premises. However, we firmly believe that the Declaration of Policy should commit us to a vigorous and effective water pollution control program. However, we do not believe that this policy should be so stated that it might preclude us from relating costs to benefits in a meaningful way. The goals of the elimination of all discharges by 1985 and recreation in and on the water by 1981 is practicable only if the costs of achieving them are justified by resulting social benefits. Otherwise, the nation would be applying costly technology in an indiscriminate and wasteful manner without regard to discernible social benefits.

Accordingly, on line 6 of page 2 after the words "of the Nation's waters" add the words "and protect all beneficial uses of such waters".

Line 10 should be changed by deleting "by 1985" and adding "to the maximum extent practicable".

Line 11 should be changed by deleting "attainable" and adding "feasible and appropriate."

Section 102(a). The scope of the Act is extended to apply to all navigable waters and ground waters, in addition to interstate waters, and in some instances to ocean waters.

EPA supports the expanded scope which is similar to that proposed in the President's Environmental Program for 1971. However, the bill is inconsistent in its inclusion of "ground water" provisions in many of its sections.

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The bill would continue the Administrator's authority to advise Federal agencies regarding the need for and value of storage for regulation of streamflow for water quality control purposes in the design of Federal reservoirs and other impoundment projects.

The bill would continue the Administrator's authority to advise Federal agencies regarding the need for and value of storage for regulation of streamflow for water quality control purposes in the design of Federal reservoirs and other impoundment projects. The authority presently contained in Section 3(c) to make grants to pay up to 50% of the administrative expenses of State or interstate water pollution control planning agencies is continued.

We support this provision but we believe that clarification is needed as to whether federally licensed but privately constructed projects are to be covered. We believe they should be included.

Section 102(b) provides for consideration by Federal agencies in the planning of any reservoir, to inclusion of storage for regulation of streamflow for water quality control purposes. This section is identical to Section 3(b) of the Federal Water Pollution Control Act.

We support the concept of considering storage and streamflow regulation as an alternative method of water quality control. We also agree with the provision that such regulation not be a substitute for adequate treatment or other methods of eliminating waste at the source. However, we favor the approach taken in S. 2770 wherein this subsection is applicable to all reservoirs and impoundments under other Federal law and the need and value of storage is determined by the Administrator rather than the construction agencies.

Section 102(c). The authority presently contained in Section 3(c) to make grants to pay up to 50% of the administrative expenses of State or interstate water pollution control planning agencies is continued. Two additional provisions are added. The three year period of planning begins after the date of enactment, and the plans are to be developed in cooperation with and consistent with any comprehensive plan prepared by the Water Resources Council and any regional plans developed pursuant to Section 208. We support the provisions for grants for these purposes. We believe clarification is needed with respect to the beginning date of the three year period.

Section 103. Present Section 4, entitled "Interstate Cooperation and Uniform Laws," is unchanged.

Sections 104 and 105 continue the authorities and appropriation authorizations contained in present Sections 5 and 6 with respect to research, investigations, training and information, with the following new provisions:

(1) EPA would be required to establish and maintain a water quality surveillance and monitoring system in cooperation with the States and other Federal agencies (Section 104(a)(5)).

(2) EPA would have authority to conduct, in cooperation with the States and other interested agencies, organizations and persons, public investigations concerning the pollution of any water body (Section 104(a)(3)). This retains desirable features of the enforcement conference of former Section 10.

(3) EPA would be directed to promote reseach for the development of techniques to measure social costs and benefits of activities regu-

lated by the Act, and to report results to the Congress by April 1, 1974.

(4) EPA would be required to conduct a waste oil study and to report the results of such study to the Congress within 18 months after passage of the Act (Section 104(m)). In this regard, we would point out that other Federal agencies are also concerned with waste oil problems, and EPA would cooperate with them in the conduct of this study.

(5) EPA would be required to conduct research on devices and methods to reduce the total flow of sewage, including unnecessary water consumption for domestic uses (Section 104(o)).

(6) EPA would be required to conduct research to determine new and improved methods of abating water pollution from agriculture (Section 104(p)).

(7) EPA would be required to conduct research into the control of pollution from sewage in rural and other areas which are not susceptible to conventional community-wide collection and treatment (Section 104(q)).

(8) EPA would be authorized to make grants to colleges and universities for the study of fresh water aquatic systems (Section 104(r)).

(9) EPA would be authorized to make grants to State and interstate agencies to demonstrate advanced pollution control techniques in river basins (Section 105(b)).

(10) EPA would be authorized to make grants for research into the control of agricultural pollution, and for research into the control of pollution from sewage in rural areas (Section 105(e)). Section 105 (i) requires that 10% of funds appropriated to carry out activities under Section 105 be earmarked for subsection (e)(1).

We support the general objectives of these Sections. However, we believe it is undesirable to fix in law the share of appropriated funds which will be devoted to any particular research area, such as would be the case for Section 105(e)(1).

EPA would be required to establish advisory committees . . . to assist in the examination and evaluation of research progress and proposal and to avoid duplication of research.

We also object to the requirement to "establish committees." We agree that extramural advice and consultation should be sought and utilized but disagree that it is desirable to limit our flexibility by requiring that we establish such committees.

We recommend the deletion of the word "nonprofit" on line 15 of page 10. We believe that grants to profit making organizations should continue to be available as in present law.

We recommend that the exemptions in Subsection 104(b)(4) with regard to Sections 3648 and 3709 of the Revised Statutes should also be made available to grantees under Subsection 104(b)(3).

We further recommend that grant and contract authority be provided for purposes of the study directed under Subsection 104(1) relating to pesticides in water.

We suggest the words "water purification" in line 1 at page 24 be deleted and that the words "waste water renovation" be substituted therefor.

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The report called for in Subsection 104(m)(2) with respect to "long-term, chronic biologic effects of such waste oil" cannot reasonably be prepared on the basis of adequate study and experimentation within 18 months. At least five (5) years will be necessary for such purposes.

Section 106 extends EPA's present Section 7 authority to make grants to States and interstate agencies to assist them in carrying out water pollution control programs. The section is designed so as to encourage increased program expenditures by the States. The section authorizes appropriations of $30 million in FY 1972, $60 million in FY 1973, and $75 million in FY 1974, and provides for allocation on the basis of need.

We support increasing the authorization for these program grants, as well as encouraging more State expenditures for their program needs. However, we question the ability of the States to utilize effectively the monies which would be authorized by this section.

Section 107 continues the provision of present Section 14 concerning acid mine pollution, but is amended to require that projects demonstrate the uses of sewage sludge for land restoration. $15,000,000 would be authorized for this section.

EPA fully supports the demonstration.

Section 108 continues the provisions of present Section 15 concerning Great Lakes pollution, but would add a new Lake Erie program for the Corps of Engineers.

We are opposed to the provision of Section 108(d) which relates to Lake Erie. First, it is undesirable to specify programs in law for specific geographic areas which can and should be covered under general provisions. National objectives, as well as ongoing programs for water pollution control would be weakened if separate authorities and approaches are established for a particular body of water. Second, it would also be undesirable to create for another Federal agency a lead role in developing environmental protection programs. This would be counter to the President's efforts to unify Federal environmental control leadership in EPA. We would point out in this regard that EPA would consult with appropriate Federal agencies, such as the Corps of Engineers and NOAA, in developing control plans for the Great Lakes.

Sections 109–112 continue the provisions of present Sections 16–19 concerning training grants and scholarships, extending the present $25 million annual authorization level for two more years, to 1974.

We agree with the proposed program continuation.

Section 113 would continue the authority for the "Alaska village demonstration projects."

We recommend that the reporting date of January 31, 1973, contained in Subsection 113(c) be revised to read "January 31, 1974." This one year extension is necessary because of construction delays occasioned by severe weather.

Title II—Grants for Construction of Treatment Works

Section 201. The objective of this Title is to require and assist the development of waste treatment management plans and practices, preferably on a regional basis.

The existing Section 8 authority to make grants for the construction of waste treatment plants is continued, with significant changes.

Beginning in FY 1975, a grant may not be made unless the applicant demonstrates that alternative waste management techniques have been studied, and that the treatment works will provide for application of the best practicable waste treatment technology, allowing as appropriate for recycling at a later date (Section 201(d)).

We agree with the requirement that the best practicable treatment technology be employed after it has been identified through consideration of alternative waste management techniques that could be employed.

Section 202. The Federal share of construction costs, beginning in FY 1973 is a flat 60%, increased to 75% if the State agrees to pay 15%.

We are opposed to the proposal to increase the Federal share to a maximum of 75% of the cost of construction. The meaningful involvement and responsibility of States and local governments in this effort are absolutely essential if the programs are to work. This cannot be achieved without a commitment of substantial State and local matching funds.

When States and localities are obliged to contribute substantial portions of the costs of waste treatment facilities, it necessarily follows that all levels of government then endeavor to produce the needed facilities which can most effectively perform the task at the least possible cost.

Section 203 provides that upon EPA approval of a project it shall be deemed a contractual obligation of the United States.

We are opposed to the substitution of contracts for grants. The contract approach sidesteps all the safeguards provided by the budgetary-appropriations process. We believe this is highly undesirable in a program of constantly changing needs and costs assessments.

We believe that the system of grants and annual appropriations is essential and recommend that it be retained in the law.

Section 204. Grant conditions include (1) inclusion of the project in any applicable comprehensive river basin plan developed under Section 209 of this Act; (2) certification of priority by the State agency; (3) adequate provision for operation and maintenance, including provision for user charges to recover the costs of operation, maintenance and replacement; (4) provision for recovery from industrial users of the capital costs attributable to the Federal share of the plant's industrial waste treatment capacity (this cost recovery reverts to the Federal disaster fund set up under the Small Business Act); (5) provision for adequate reserve capacity; and (6) legal, institutional and other capability for insuring adequate construction, operation, maintenance, and expansion of treatment works. EPA would be required to issue guidelines governing user charges.

We generally favor these provisions. However we cannot agree that industrial user charges attributable to the Federal share of the capital costs of a project should revert to the U.S. Treasury, nor that such funds should be made available to the disaster relief fund.

We strongly support the concept of requiring that grant recipients have the legal, institutional, and economic capability of self-sufficiency.

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Accordingly, we believe that funds recovered from user charges should be retained by the communities in support of this important objective.

We are opposed to the inclusion of "expansion" as a part of the basis for determining user charges as provided in Section 204(b)(1)(A). We believe that such practice is legally precluded in many communities and does not represent sound municipal economic practice. However, "expansion" is essential to the self-sufficiency objectives and should be retained in Subsection 204(b)(1)(C).

Section 205. Allocation and reallocation (at the end of the fiscal year) of construction grant funds would be made on the basis of need, as determined by the "Cost of Clean Water" for FY 1973 and 1974, and revised studies thereafter.

EPA strongly endorses an allocation formula based on identified needs. We recommend that needs be determined on criteria including seriousness of pollution, population and industrial concentrations, natural conditions and other relevant factors.

Also language similar or the same as that included on S. 2770 Section 205(d)(1) is needed to assure adequate funding of the Blue Plains Sewage Treatment Plant since the allocation formula would not provide sufficient funds to the District of Columbia. Also, no allocation formula is provided for FY 1972 funds.

Section 206 provides for reimbursement of State and local funds used to prefinance the Federal share of projects initiated between June 30, 1966 and July 1, 1971. In addition, projects may be approved for payment of the Federal share out of later year's allocation, in the event that all funds allocated to a State in the fiscal year in which the construction is undertaken have been obligated. Reimbursement for projects constructed between June 30, 1956 and June 30, 1966 would be authorized as the difference between the amount of Federal assistance already received, and 30% of project costs. For projects constructed between June 30, 1966 and July 1, 1971, reimbursement would be authorized as the difference between the amount of Federal assistance already received and the amount for which it was eligible. $2.75 billion is authorized to be appropriated for purposes of this section.

We strongly object to the "windfall" reimbursement of 1956–1966 projects. There is no guarantee that such payment will do anything to make our water cleaner. It is fund distribution unrelated to environmental protection. Revenue sharing, if that is the object, is better achieved under a general mechanism based on financial rather than clean water needs. However, we do endorse reimbursement to cover the full Federal share allowable under current law, which applies to post-1966 projects only.

Section 207 authorizes funding for waste treatment construction grants as follows: Appropriations authority of $2 billion in FY 1972; and $5, $6 and $7 billion in FY 1973–1975.

We continue to support our originally proposed three year, $6 billion construction grant program. Our proposal is based on the most comprehensive and reliable assessment of waste treatment needs available. Further, the waste treatment construction industry does not presently have the capability nor do we believe it can expand rapidly enough to provide for the construction larger funding demands. Costs,

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already inflated in this area, will undoubtedly mount as the lag between construction capacity and funding increases.

Section 208, entitled "Areawide Waste Treatment Management", provides that the Governors of States, with EPA guidance, would designate the boundaries of urban-industrial or other seriously polluted areas appropriate for regional waste treatment management, and agencies to develop areawide waste treatment management plans for such areas. Within two years after designation of an agency, each would be required to develop plans for its area, which would include (1) establishment of construction priorities for treatment works; (2) identification of future waste collection and treatment needs; (3) establishment of a regulatory program; and (4) processes to identify various nonpoint sources of pollution, with procedures to control them to the extent feasible. After certification by the Governor, the plans would be submitted to EPA for approval. EPA would be required to provide financial assistance to designated planning agencies, in amounts equal to 100% of their planning costs in each of the first four years, and not to exceed 75% of such costs thereafter. $300 million would be authorized for the first three years. The Secretary of the Army would be authorized to consult with and provide technical and operating assistance to planning agencies, and would be authorized $50 million for each of the first three years.

Although we fully endorse the concept of regional waste treatment planning, we do not favor the provisions of Section 208 for several reasons. Basin-wide, regional and metropolitan planning are already required pursuant to regulations governing waste treatment facilities construction grants. Moreover, new special purpose authorities should not be created without regard to other planning underway or without regard to important functions of other levels of government.

Furthermore, we strongly oppose 100% Federal funding of these planning costs. If Federal financial assistance for such activities is to be provided, substantial State and local matching is essential.

We are also opposed to the provision of 208(h) which, evidently, would sanction a direct role for the U.S. Army Corps of Engineers in the planning and operation of regional waste treatment management. Such provisions would tend to divide Federal authority and activities regarding environmental protection, which were consolidated under EPA's leadership by Reorganization Plan No. 3 of 1970. The Corps does have planning expertise which can be utilized in many instances in developing alternatives for regional waste treatment. However, in such cases the Corps should provide assistance to EPA and to local and State agencies under EPA criteria upon request. We do not believe that a separate authorization for the Corps for this activity is appropriate.

Section 209 would direct the President to prepare, through the Water Resources Council, Type B plans for all U.S. river basins by January 1, 1980. $200 million would be authorized for this purpose.

We are opposed to this provision. Adequate authorization for Type B studies is provided in the Water Resources Planning Act and should not be repeated in the Federal Water Pollution Control Act. We also believe that appropriations for river basin aspects of water quality

management planning should be made directly to the agencies responsible for such planning.

Section 210 would add "sewage collection" systems to the definition of "waste treatment works."

We believe that sewers, per se, are more directly related to community development than to pollution control. Therefore, EPA does not support the inclusion of sewage collection systems for grant assistance under the Federal Wa er Pollution Control Act. Moreover, adequate mechanisms exist for coordinating EPA's waste treatment facility construction grants program and HUD's sewage collection systems program and more are being developed administratively as necessary. The proposed legislative change would cause needless confusion and delay by further dividing Federal responsibilities for sewage collection systems.

Section 210(2) (c) provides for the publication of guidelines for the evaluation of methods of waste treatment. We recommend that the deadline for the preparation of these guidelines be extended by an additional 180 days.

Title III—Standards and Enforcement

This Title would substantially alter the standard setting and enforcement provisions of present law. In fact, the water quality standards approach would be abandoned over a period of time.

Before discussing particular aspects of the Title III provisions of H.R. 11895 and 11896, we would like to point out a basic consideration. As was proposed by the Administration earlier this year, the current law needs to be strengthened, primarily by providing for effluent limitations as an application and enforcement tool in the achievement of the standards. We believe that the establishment of effluent limitations, that is, a direct address to the quality and quantity of the effluent is the key ingredient. We need clear authority to regulate effluent sources directly. We believe that regulation must take into account both the best practicable treatment currently available and ambient water quality standards where higher treatment is required to protect ambient water quality.

We are convinced that adequate effluent limitations cannot be based entirely on ambient water quality standards on the one hand nor entirely on the availability of technology on the other. To attempt to base limitations entirely on ambient water quality considerations assumes an ability to relate accurately ambient water quality with effluents. But we are not able to do that with sufficient precision at this time. It does not follow, however, that all effluent limits be based entirely on the availability of control technology as the bills would provide. Both ambient water quality considerations and available control technology must be taken into account.

Section 301(b) (1) calls for the achievement of the following point source effluent controls:

(1) for industrial point sources: by January 1, 1976, the best practicable control technology currently available, as defined by the Administrator of EPA.

(2) for discharges into publicly owned treatment works: by January 1, 1976, compliance with applicable pretreatment requirements.

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(3) for publicly owned treatment works: secondary treatment as defined by the Administrator if the project is in existence on January 1, 1976 or is approved prior to June 30, 1974.

(4) any more stringent controls required under State law or present Federal law.

We favor the requirement of "best practicable treatment" for industrial sources, pretreatment requirements for industrial discharges into municipal systems, and secondary treatment for municipal sources for which Federal grants will be made available.

However, we are convinced that a 2-year extension from the 1976 deadline will be necessary for some industrial sources. Similarly, we are of the view that all municipal sources in existence in 1976 cannot achieve secondary treatment; the secondary treatment requirement should only apply to projects for which new Federal grants are provided.

Section 301(b)(2) calls for the achievement, by January 1, 1981, of the following point source effluent controls:

(1) for industrial point sources: elimination of discharge of all pollutants, unless on the basis of information supplied by the discharger it is determined that compliance is not attainable at a reasonable cost, in which event application of the best available technology will be required, taking its cost into account;

(2) for discharges into publicly owned treatment works: same as under section 301(b)(1) above;

(3) for publicly owned treatment works: compliance with Section 201(d) (i.e., best practicable waste treatment technology including provision for recycling as appropriate).

Wee see no valid basis to move from "best practicable treatment" to "best available treatment" for industrial sources simply to move closer to the goal of "no discharge of pollutants." We believe that "best practicable treatment" representing a range of technology should continue as a base. It is to be expected that the base or threshold of that range will be higher in 1976 than it is today.

However, for existing sources we believe that levels of treatment beyond "best practicable" can only be validly required if necessary to support water quality standards.

We are also of the view that effluent limitations requirements after 1976 should emerge from new State implementation plans which identify beneficial uses and potentials, and which take regional and basin-wide factors into account.

We believe that "best practicable treatment" should be required of municipal sources based on water quality standards.

EPA would also point out that by couching its requirements in terms of a "not later than" date, this section could produce a hiatus in enforcement activities until January 1, 1976. An additional hiatus could occur between 1976 and 1981 with respect to the more stringent standards of Section 309(b)(2). To avoid any such implication, Section 309(b) should be redrafted to require compliance "as soon as possible but in no event no later than January 1, 1976." Without this amendment there will be a strong tendency on the part of industry, and perhaps a Court, to view the 1976 and 1981 dates as deadlines not requiring earlier compliance with the standards of treatment required by Section 301(b), if that is possible.

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EPA further believes that the present language requiring "compliance with any application pretreatment requirements and any requirements under section 307 of this Act" is unclear as to whether it includes the toxic pollutant effluent standards of Section 307(a) in referring generally to requirements under Section 307, since Section 307(a) would seem not to apply to discharges into publicly owned treatment works. (Section 307(b) pretreatment standards would pick up discharges of toxic pollutants into treatment works.) However, to refer to Section 307 in its entirety in Section 301 may cause confusion in view of the variant time schedules and hearing procedures set out in Section 307(a) for toxic pollutants as opposed to substances subject to pretreatment (Section 307(b)). The above difficulties can be avoided by amending Section 301(b)(1)(A)(ii) and (b)(2)(A)(ii) to read:

". . . compliance with any pretreatment requirements under subsection (b) of Section 307 of this Act."

Finally, in Section 301(b)(1)(C)(ii), the words for "intrastate waters" should be deleted. Otherwise, the section will not cover State water quality standards for interstate waters which have not been approved under the Federal Water Pollution Control Act.

Section 301(d). Effluent limitations required by Section 301 would be established and applied to all point sources of discharges covered by the Act by means of the permits issued under Title IV.

We favor the approach whereby effluent limitations would be applied to dischargers through a permit mechanism. However, we do have serious difficulties with some of the permit provisions of Title IV, which will be addressed in relation to the various sections of that Title.

We would also point out that it is unclear whether the provisions of Section 301 would become effective immediately. We assume that it is the intention of the Committee that, except as otherwise provided in the bill, the existing system of regulation will continue until the regulations called for by the bill come into effect.

Section 302 provides that EPA or, as appropriate, a State, would have authority to set more stringent effluent limitations for point sources whenever such action is considered necessary to attain or maintain the level of water quality necessary to protect public water supplies and agricultural and industrial uses, to assure a balanced population of shellfish, fish and wildlife, and to allow recreational activities in and on the water. No such effluent limitation could be established without a public hearing to determine the relationship between the economic and social costs of achieving such limitation, and the social and economic benefits to be obtained. If the person affected demonstrates that, irrespective of the availability of the necessary technology, there is no reasonable relationship between such benefits and costs, such effluent limitation shall not become effective.

We do not favor the provisions of Section 302 since it is premised on a requirement of "best available technology" as a base. As we have indicated above, we are opposed to the approach whereby effluent limitations in the post-1976 period would be based on best available technology.

However, with respect to the specific language of Section 302 we have the following comments. Section 302 mixes into its area-wide approach a procedure focusing on individual discharges, with inadequate mechanisms for coordination among State and Federal agen-

cies. In particular, Section 302 ignores the possibility that specific waters to which the Section 302 limitations will apply may cover more than one State jurisdiction. In addition, some of the discharges within the area may be subject to exclusive State jurisdiction under an approved Section 402 permit program, while others may be subject to Federal overview. For these reasons, a multiplicity of jurisdictions could well apply to discharges within the area as to which Section 302 limitations may be sought. This situation will give rise to at least two problems.

First, there is no guidance as to how such hearing shall be run. Second, and more importantly, what would happen under the bill if EPA believes a more stringent standard is necessary in a particular area but the State disagrees? Apparently, Section 402 permits under exclusive State jurisdiction would incorporate the less restrictive standard while other permits issued by EPA would apply the more stringent condition. The same sort of conflict could occur between States. These conflicts are inevitable and would obviously undermine the area planning so necessary to make Section 302 more than a dead letter.

Section 303 provides that the Administrator is authorized to permit the discharge of specific pollutants under controlled conditions associated with approved "acquaculture" projects.

EPA has no objection to this provision.

Section 304. For the purpose of assisting the States, EPA would be required to publish (1) criteria of water quality; (2) guidelines for effluent limitations; (3) information on treatment methods; (4) information on alternative waste treatment management techniques; (5) information on methods to control pollution from non-point sources; (6) guidelines for pretreatment standards for pollutants which are not susceptible to treatment in treatment works; (7) guidelines for analysis of pollutants; and (8) guidelines concerning monitoring and reporting requirements, enforcement provisions, and acquisition of information by the States.

EPA generally favors these information requirements. We would, however, suggest amending Section 304(c) to require that the national standards of performance guidelines be issued at the same time as the initial publication under Section 306(b)(1)(B) of the standards to which the information relates. We would also suggest that the last sentence of Section 304(f)(1) so as to conform with Section 307, to which it relates, be amended as follows: "Guidelines under this subsection shall be established to control and prevent the discharge into publicly owned treatment works of any pollutant which interferes with, passes through, or otherwise is incompatible with such works."

We recommend that Section 304(b)(2)(B) be amended by adding the following language after the word "competition": "the results of stream modeling and sampling technology taking into account the hydrology, climate, influence of other dischargers, documented stream quality specifications, natural, physical, chemical and biological or aesthetic values of the stream under the conditions of one year in ten probable low flows and extremes of recorded temperature for the area of discharge."

We also recommend that the performance time in Section 304(d)(1) and 304(h)(1) be extended to 90 days; that the performance times in

Sections 304(d)(2) and 304(i) be extended to one year; that the performance times in Section 304(f)(1) and 304(h)(2) be extended to six months.

Under Section 305, EPA would be required to prepare a report by July 1, 1973, describing the quality of the Nation's waters, including an inventory and analysis of all point sources. On July 1, 1974, and each year thereafter, each State would be required to submit a water quality progress report.

EPA does not object to this provision. However, it should be noted that the time constraints are very stringent for a report of this detail.

Section 306. EPA would establish Federal standards of performance for new sources within specified categories of water pollution sources: Twenty-eight such categories—primarily various manufacturing processes—are enumerated in the section. The required standard of performance for these new sources would incorporate the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available technology, and would include, where appropriate, a standard permitting no discharge of pollutants.

EPA generally favors this provision. We would point out, however, that the procedure for delegating to the States the authority to enforce new source performance standards should not be read to run counter to any procedures under the Section 402 permit program.

Under Section 307, EPA would establish Federal effluent standards and prohibitions for toxic substances, and regulations establishing pretreatment standards for discharges of pollutants into publicly owned treatment works.

Although we favor the control of toxic and hazardous materials, we do not endorse the provisions of Section 307 relating to toxic substances. We believe toxic substances should be dealt with under H.R. 5276, an Administration proposal to amend the Federal Hazardous Substances Act and Section 12 of the Federal Water Pollution Control Act.

We favor the pretreatment provisions of Section 307, but recommend that the performance time of Section 307(b)(1) be extended to six months.

Section 308. Certain authorities are conferred upon EPA concerning inspections, monitoring and entry.

EPA generally favors these provisions. We would, however, suggest that Section 308(c) is confusing, since it states that only trade secrets are entitled to confidentiality, but then refers to the "purpose of Section 1905 of title 18." 18 U.S.C. 1905 covers much more than trade secrets—it covers "trade secrets, processes, operations, style or work, or apparatus or . . . the identity, confidential statistical data, amounts of source of any income, profits, losses, or expenditures . . ." We urge that the bill be amended to extend confidentiality to "trade secrets of such persons and all other information entitled to protection under 18 U.S.C. 1905."

Section 309 provides a system of administrative orders, civil and criminal actions, and civil and criminal penalties to redress violations of effluent limitations, permits, discharge prohibitions, and standards of performance under Titles III and IV. Under normal circumstances,

EPA is not for instituting enforcement actions unless the State concerned fails to take appropriate action; however, there is a provision authorizing EPA to take direct enforcement action in a State during any period in which State enforcement is ineffective.

EPA is in general agreement with this section but would suggest the following technical changes:

Section 309(a)(2), relating to periods of federally assumed enforcement, points out a problem by referring (in line 17, page 92) to the "failure of the State to enforce such permit conditions," including Section 306 or Section 307 requirements, or just to those permits embodying a Section 301 or 302 effluent limitations? The latter sections appear to be the only ones intended to be covered. If so, Section 309(a)(2), line 17, page 92, should be amended to cover "failure of the State to enforce such limitations or permit conditions applying such limitations effectively . . ."

It should be recognized that a State can, notwithstanding action by the Administrator under Section 309(a)(2), continue to operate a permit program approved under Section 402, including any categories of point sources as to which the requirement for Federal concurrence has been waived. In any event, the EPA summary takeover procedure under Section 309(a)(2) could conflict with that provided in Section 402(c)(3), requiring a public hearing, at least when a State was operating its own 402 program (which is to include enforcement—see Section 402(b)(7)). Indeed, other than with respect to existing "more stringent" State standards incorporated into Section 301 (via Section 301(b)(1)(C)), it is unclear whether Section 309(a)(2) could ever come into play without a State Section 402 program operating, since until that time presumably only EPA would be enforcing Section 301 or 302 through the Section 402 permit program.

To avoid conflict with Section 402(c)(3) hearing procedures, the following new section (3) should be added to Section 309(a) as follows:

"(3) If, prior to action taken by the Administrator under paragraph (2) of this subsection, effluent limitations under Sections 301 or 302 of this Act are being applied by a State under a program approved under subsection (b) of Section 402 of this Act, then the procedure provided in subsection (c)(3) of that section shall be followed by the Administrator in acting to assume enforcement, under paragraph (2) of this subsection."

Section 309(a)(3) requiring the Administrator to either issue an order of compliance or sue whenever he finds a violation of Section 301 or 302 effluent limitations or Section 306, 308, or 402 of the Act makes no mention of the 30-day notice required by Section 309(a)(1) with respect to Section 301 or 302 effluent limitations. In order to avoid conflict with Section 309(a)(1), Section 309(a)(3) should be revised as follows: "Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of Section 301 or 302 of this Act . . . (etc.) he shall, subject to the requirements of paragraph (1) of this subsection as to a violation of an effluent limitation under Sections 301 and 302 of this Act, issue an order requiring such person to comply with such section . . ."

With respect to Section 309(a)(4), the Senate Report states (at page 63) that if a violation ". . . involves Section 308, the order will

not take effect until the polluter has an opportunity to confer with EPA." To avoid unnecessary confusion, the list of exceptions to the "conferring" requirement presently set forth in the first sentence of subsection 309(a)(4) should be replaced with a single reference to Section 308 as the section for which a violation order must be preceded by an opportunity to confer. Section 309(a)(4) would then read as follows:

"(4) An order issued under this subsection relating to a violation of any requirement 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 or his delegate concerning the alleged violation."

As presently drafted, Sections 309(b), (c) and (d) make no reference to enforcement of orders issued by the Administrator under the emergency power granted him by Section 504(a) of the Act. Nor is there any provision for enforcement of such orders made in Section 504. Enforcement sanctions, including criminal and civil penalties, should be available in order to make the Administrator's emergency powers meaningful. Therefore, we suggest adding a reference to Section 504(a) orders to the enforcement provisions of Section 309 as follows:

"(b) The Administrator shall commence a civil action for appropriate relief, including a permanent or temporary injunction whenever any person—(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section or any order issued under subsection (2) of Section 504 of this Act."

A similar reference to Section 504(a) should be made in the list of violations in Sections 309(c) and (d) providing for criminal and civil penalties (as will be discussed below, these sanctions should, in any event, be patterned more closely after subsection (b)).

In addition to inclusion of Section 504(a) orders, Section 309(b), (c) and (d) should be made to conform to each other as much as possible to avoid any unintended distinctions being drawn between violations subject to injunctive relief, criminal and civil penalties. Looking first at Section 309(b), subparagraph (b) refers to violations of Section 301, 302, 306 and 307 which have already been listed in subparagraphs (2) and (3) of Section 309(b). This is unnecessary and confusing, and might be read to nullify the restrictions on enforcement of Section 301 and 302. Subparagraph (6) should be amended as follows:

"(6) violates a permit, or condition thereof, under Section 402 of this Act."

Section 309(b)(5) exempts no-permit discharge violations from enforcement until July 1, 1973. This is intended to encourage prompt action by EPA in processing permit applications (see Senate Report, p. 64). However, omitting the exemption from the criminal and civil penalties in Section 309(c) and (d) certainly does not reinforce the pressure on EPA to process applications and also will not encourage industry to file early since they can get prosecuted anyway. Therefore, this exemption should be included in Section 309(c) and (d).

An additional inconsistency among these provisions appears in Section 309(d) where the violations subject to penalty are listed in more abbreviated form and some differences can be discerned as to Sections 301, 302 (reference to federally-assumed enforcement omitted) and 307 (reference to pretreatment standards omitted).

In sum, Section 309(b) should be rewritten to delete the portion of Section 309(b)(6) referred to above, and Section 309(c) and (d) should then be made to conform to subsection (b) unless different treatment is specifically intended.

Section 311 reenacts, with some modifications, present Section 11 dealing with oil pollution. It also includes within its ambit, hazardous substances now dealt with in Section 12 of this Act. The latter is defined to mean any substance designated by the Administrator of EPA, other than oil, which may present an imminent and substantial danger to the public health or welfare (including fish, shellfish, wildlife, shorelines and beaches) when discharged "in any quantity" into applicable waters.

We generally favor the provisions of Section 311.

We do, however, have the following comments and recommendations:

1. Section 311(a)(3)

The question of whether this section applies to continuous discharges, or only to spills, should be clarified. The intent appears to be to apply it only to spills. Otherwise, the regulation of hazardous substances under this section, and toxic substances under Section 307(a), overlap and conflict. Thus, for example, a heavy fine is established for any discharge of certain hazardous substances (Section 311(b)(2)(C)), although under Section 307(a) the same substance might be classified as "toxic" and subject to an effluent limitation which permits some continuous discharge.

We believe this section should apply only to spills and that the present definition of "discharge" in 311(a)(2) should be changed as follows: " 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but shall not include any discharge that is in substantial compliance with an effluent limitation established under Sections 301, 302, 306 or 307, or is in substantial compliance with the conditions of a permit issued under Section 402 of this Act."

2. Section 311(b)(2)

Section 311(b)(2) rests on a misconception as to the nature of "removal" of hazardous substances. The section requires EPA to determine whether any listed hazardous substance "is subject to removal under this section." The term "removal" is defined in an extremely broad fashion by 311(a)(9) to include not only removal in the ordinary sense, but also "the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare. . . ." This would include, for example, evacuation of a population, or closing down a public water supply system. Under this definition of removal, every "hazardous substance" would be "subject to removal" under many, if not most circumstances. Indeed, even under a more restricted concept of "removal," if the circumstances are right just about any hazardous substance can be removed. Witness, for example, the case of the small lake in Ohio into which a quantity of endrin was dumped; removal was accomplished by filtering the entire water volume through a carbon filter. Or in the case of some spills, "removal" might be accomplished by diking.

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In light of these considerations, 311(b)(2)(B) commits a basic error in assuming that there can be a general determination for each hazardous substance as to whether it is "subject to removal." Removal must depend on the particular circumstances of the spill, as well as on the type of substance involved. Accordingly, 311(b)(2) should be amended to make the penalty which it imposes dependent on the degree to which the substance was removed or removable in the circumstances of the particular spill for which the penalty is imposed.

There is another problem with 311(b)(2) as drafted. It imposes a maximum penalty not to exceed $100 per gross ton or $14,000,000 for vessels and $8,000,000 for onshore and offshore facilities regardless of the amount discharged. Yet 311(b)(4) requires the President to issue regulations which would determine that certain amounts of hazardous substances are not harmful. It would make no sense to impose fines for a discharge of an amount which EPA regulations said was not harmful. In addition, the maximum penalties proposed are unrealistic and would be more meaningful if they followed those proposed in S. 2770. In view of this problem and that relating to removability, we would suggest amending Section 311(b)(2)(ii) to read as follows:

"(B) The Administrator shall, as part of any determination under subparagraph (A) of this paragraph, establish the rate of penalty, not to exceed $5,000 per barrel (or equivalent unit established by regulation by the Administrator) of discharge, to be imposed under subparagraph (C) of this paragraph, for each hazardous substance designated. He shall establish such penalty based on the toxicity, degradability, and disposal characteristics of such substance.

"(C) The owner or operator of any vessel, onshore facility or offshore facility from which there is discharged any hazardous substance designated under subparagraph (A) of this paragraph, shall be liable subject to the defenses to liability provided under subsection (f) of this section, to the United States for the penalty per barrel of such substance discharged established under subparagraph (B) of this paragraph, or $50,000 per discharge, whichever is greater. Such penalty shall be subject to reduction to the degree that the owner or operator can prove to the satisfaction of the Administrator that the hazardous substance discharged was in fact removed or appropriate restoration actions were taken, and no such penalty shall be imposed for any discharge of an amount determined not to be harmful under regulations issued pursuant to paragraph (4) of this subsection."

3. Section 311(b)(6)

Following the provisions of the present Act, this provision assigns to the Coast Guard responsibility for assessing a civil penalty of up to $10,000 for discharges of oil and hazardous substances. The present Act, however, only covers discharges of oil. Expansion of the section to hazardous substances may make it desirable for EPA to be the agency with authority to impose a fine in certain cases, as, for example, discharges of hazardous substances from various industrial facilities. The Coast Guard, of course, would remain the most qualified agency where there are discharges from vessels or terminals. Section 311(b)(6) should be amended to give the President authority to allocate the authority among EPA and the Coast Guard, as follows:

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is willfully or negligently discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the appropriate agency of the United States Government as determined by the President of not more than $10,000 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 agency. 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 agency. The Secretary of the Treasury shall withhold at the request of such agency the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel 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 agency."

4. Section 311(d)

Section 311(d) provides the President with authority to take summary action in the event of a marine disaster involving a substantial threat to the public health or welfare. This section is brought into play if there is an actual or imminent discharge of "large quantities" of oil or hazardous substances from a vessel. The word "significant" should be substituted for the word "large" (line 16) to insure application of the section to hazardous substances which may present a substantial threat to the public health or welfare even in small quantities.

5. Section 311(p)

Section 311(p), which requires vessels to carry evidence of financial responsibility for liabilities under 311, is made effective by 311(p)(2) one year after the effective date of the Water Quality Improvement Act of 1970. This makes sense with respect to liability for oil spills, which was established by the 1970 Act, but it does not make sense with respect to liability for hazardous substance spills, which would be established by the present legislation. Accordingly, the first sentence of 311(p)(2) should be amended to read as follows: "The provisions of paragraph (1) of this subsection shall be effective one year after the effective date of the Water Quality Improvement Act of 1970 with respect to liability for discharges of oil, and one year after the effective date of this section with respect to liability for discharges of hazardous substances."

Section 311(p)(4) should be deleted as this study was conducted in accordance with the Water Quality Improvement Act of 1970 and submitted to Congress in April 1971.

Section 312 continues present Section 13 dealing with control of sewage from vessels, with an amendment under which Federal preemption of State regulations would apply to vessels which achieve compliance with Federal standards and regulations for marine sani-

tation devices after their promulgation but prior to their effective date, and an amendment whereby all discharges may be prohibited if necessary for "the protection and enhancement of the quality" of any water.

We support these amendments.

Section 313 amends present section 21(a) dealing with control of pollution from Federal activities to require compliance with applicable Federal, State and local requirements (except as exempted by the President).

We support these amendments.

Under Section 314, States would be required to prepare special plans for controlling and abating pollution of publicly owned fresh water lakes; $300 million would be authorized over a three-year period for grants to States for such purposes.

We strongly oppose these provisions. We can see no valid reason to separate from the national program bodies of water or categories of water, such as fresh water lakes. Those lakes, just as other bodies of water can be more effectively addressed under our comprehensive programs of grants, research, demonstrations, technical assistance, planning and regulations. There is no separate technology unique to pollution control in fresh water lakes to justify the separate address to these problems Section 314 would authorize.

We recommend these provisions be deleted.

Section 315. The National Academies of Sciences and Engineering are directed to study and report on all aspects of the total social and economic effects of either achieving or not achieving the effluent limitations and goals for 1981.

EPA agrees that the social and economic effects of achieving or failing to achieve the limits and goals set by the bill should be studied and ascertained. However, we would suggest that the National Academies of Sciences and Engineering are not, by themselves, the appropriate bodies to address all of the broad social questions involved.

H.R. 11896 calls for the submission of the report of such study to the Congress not later than two years after the date of enactment. It is EPA's view that any such studies conducted should in their final analysis appropriately include the maximum information and data that will be developed pursuant to planning and other activities the bill would authorize during the period 1971–1976. Although a preliminary report might be appropriate by such date, it is our view that the final report should not be required prior to 1975.

Title IV—Permits and Licenses

Section 401 is essentially the same as the present section 21(b). However, the grandfather clause—Section 401(a)(7)—has been amended to achieve a result exactly the opposite of what was intended by the Senate Committee. The Senate Committee report explains that the intent of the amendment was to exempt Refuse Act permits (or equivalent permits under the new Act) from the grace period, where construction of the facility started before April 3, 1970. The Report explains (at p. 69): "Certification will be required for all such permits from the date of enactment on, regardless of the time construction of the facility began."

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However, as drafted the new Section 407(a)(7) does *not* exempt Refuse Act or equivalent permits from the grace period. Instead, it includes such permits in the grace period, and then exempts them from the requirement that the permit expires on April 3, 1973 unless a water quality certification is obtained.

Section 401(a)(7) should be amended to delete the parenthetical phrase following the word "permit" in line 9 (p. 142 of the bill), and insert the same parenthetical phrase in line 7 (p. 142 of the bill) following the word "permit."

Section 401(d) certification under Section 401 are to assure compliance with Sections 301 and 302 and "any other applicable water quality requirement in such State." The scope of the catchall phrase is not defined in Section 401, and the question arises as to whether certification by the State is to include certification with respect to discharges from point sources to meet the provisions of Section 306 or 307. Section 401(d) provides that any certification is to set forth the effluent limitations necessary to assure that the applicant for a Federal license will comply not only with Sections 301 or 302 but also Sections 306 or 307 or any more stringent requirement under State law as provided for in Section 510 of the Act. Therefore, the intent of the drafters apparently was to allow the States to certify as to Section 306 or 307 requirements or any applicable State requirement saved under Section 510. This intention would be more clearly expressed if the term "applicable water quality requirement" was defined in a new subsection (f) which would track the present language of subsection (d) as follows:

"(f) The term 'applicable water quality requirement' as used in this section means any applicable effluent limitations under Section 301 or 302 of this Act, or prohibition, effluent standard, or pretreatment standard under Section 307 of this Act, or any more stringent water quality requirement under State law as provided in Section 510 of this Act."

Present subsection (d) should then be shortened to read as follows:

"(d) Any certification provided under this section shall set forth any effluent limitations and monitoring requirements necessary to assure that any applicant for any Federal license or permit will comply with any applicable water quality requirement and shall become a condition on any Federal license or permit subject to the provisions of this section."

Section 402, entitled "National Pollutant Discharge Elimination System," directs the Administrator to issue permits for the discharge of pollutants into navigable waters, the territorial sea, the waters of the contiguous zone, or the oceans, provided such discharges meet applicable requirements under the Act (in particular, the requirements of Sections 301 and 302 dealing with effluent limitations, and the requirements of Sections 306 and 307 dealing with new source standards and toxic substances). Section 402 in effect continues the Permit Program heretofore carried out under the Refuse Act of 1899, except that permits would be issued by EPA (under the Federal Water Pollution Control Act) rather than by the Corps of Engineers. There is a savings clause for any permits issued under the Refuse Act after June 30, 1971.

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The permit-issuing authority under Section 402 applies to all discharges of pollutants into navigable waters of the United States, the contiguous zone and the ocean, except discharges from vessels and other floating craft into the contiguous zone and the oceans. The excepted class of discharges would be regulated by a separate piece of legislation.

Any application for a permit for the discharge of dredged spoil into navigable waters would be required to be accompanied by a certificate from the Secretary of the Army that the chosen disposal area is the only reasonably available alternative. The permit would be required to be issued unless the Administrator of EPA finds that the matter to be disposed of will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries, or recreation areas.

The Administrator would be required to promulgate guidelines establishing minimum monitoring, reporting, and enforcement provisions for State permit programs; thereafter any State desiring to establish its own permit program as part of the National System would be required to submit a complete description of its proposed program for the Administrator's approval. The Administrator would be required to approve each State program provided certain conditions are met designed to ensure the integrity of the national program; upon approval of a State program, the Administrator would suspend the issuance of permits for discharges into the waters of that State. Thereafter, the Administrator would be authorized to withdraw approval of the State program if he determines that the State it not administering it in accordance with applicable requirements and if, after notice, appropriate corrective action is not taken. In addition, each State having an approved program would be required to transmit to the Administrator copies of all permit applications received by it. The Administrator may veto the issuance of any permit if he objects within 60 days; however, the Administrator would be authorized to waive this overview function (for permits for discharges into inland navigable waters) with respect to categories of point source discharges designated by him at the time of his approval of a State program. Approval of a State permit program would not preclude the Administrator from initiating enforcement actions with respect to permits and effluent limitations within the preview of such State program.

EPA favors most aspects of the permit program which would be provided by section 402. We believe that this section preserves the momentum of the Federal permit program already underway. It provides an effective mechanism whereby effluent limitations and other limitations and requirements can be applied in a clear, direct and orderly way to municipal and industrial dischargers. We do have problems with some of the provisions of section 402, which are described below.

We agree that Federal overview of State permit programs is essential after permit issuing authority has been delegated to the States. However, we question whether the delegation and review procedure provided in the bills would be effective and whether it would allow for a meaningful delegation of authority and responsibility to the States.

We recommend that the Federal overview after permit-issuing authority has passed to a State consist of Federal authority to with-

draw the permit issuing authority in whole or in part, as appropriate Partial withdrawal should be authorized with respect to categories or classes of sources, in terms of industrial or other groupings river basin or area classes, or types of discharges considered in terms of volumes or any other appropriate class or category.

Such Federal overview would allow an appropriate Federal response and backup, without the necessity for total withdrawal of State-issuing authority on the one hand or permit-by-permit review on the other.

We would also recommend that section 402 be amended to authorize the Federal government, in cases involving revocation of State permit programs, to review any permits within the revoked category that have been issued during the 90 days preceeding the revocation. This would assure opportunity to correct any permit conditions if necessary, but would also assure industry that there would be a cut-off point regarding any possible review of newly issued permits.

Section 402 of the bill, dealing with permits, does not have a provision at present for an administrative review of permit issuance Without such a provision, whenever permit conditions are challenged the courts will take *de novo* review. It is essential that permits issued by EPA have behind them the presumptions established by a full administrative review procedure when tested in court.

Accordingly, it is recommended that provision be included whereby an applicant for a permit is afforded an opportunity for an administrative hearing in the State where the source is located. The record of such hearing would provide the appropriate basis for judicial review, without the necessity for *de novo* review. Provision should also be made for issuance and continuation of a temporary permit, where appropriate, during hearings and judicial review.

Section 402(1) requires that copies of the permit application be made public. Nothing is said as to protection of trade secrets or confidential commercial or financial information. It would seem appropriate to accord the same degree of confidentiality to permit application data as is accorded by section 308(c) to information obtained by inspections and reports.

Section 403 provides that no permit under section 402 for discharges into the territorial sea, contiguous zone or ocean may be issued except in compliance with guidelines for determining the degradation of such waters. These guidelines would take into account the effect of pollutant disposal, in particular volumes and concentrations, on human health and welfare, marine life, and esthetic, recreational and economic values.

We generally favor this provision.

Section 404, "Permits for Dredged or Fill Material," would let the Corps issue permits for dredge or fill in navigable waters subject to EPA criteria and review, but no recommendation of EPA need be followed where the Secretary of the Army determines "there is no economically feasible alternative reasonably available." The bill would allow the Secretary to govern Federal dredge and fill projects by regulations rather than permits.

We are strongly opposed to this section. We believe that all permits for discharges into navigable waters or the oceans should either be

issued by EPA or subject to EPA review and concurrence with respect to environmental considerations. Moreover, we believe that it is overly complex and would be very difficult to administer.

Title V—General Provisions

Section 501 contains the administrative provisions formerly contained in Section 22; Section 502 contains an expanded series of definitions; Section 503 continues the Water Pollution Control Advisory Board formerly provided for in Section 9.

Section 504, entitled "Emergency Powers," provides that upon receipt of evidence that a pollution source is presenting an imminent or substantial endangerment to the health or welfare of persons or to the marketability of shellfish products, the Administrator shall issue orders requiring immediate abatement of such pollution source.

Although we generally favor the objectives of Section 504, requiring the Administrator to act simply on receipt of evidence "that human health or welfare or economic well-being is endangered" is an unwise and unnecessary step that does not afford the due process of law to the parties involved. We would recommend the following language in substitution for the language of Section 504 of the bill:

"Section 504. Notwithstanding any other provision of this Act, the Administrator, upon his determination that any discharge or combination of discharges into any of the waters specified in Section 304(a) presents an imminent and substantial danger to the health or welfare of any person or persons, or to water quality, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to enjoin immediately any person contributing to the alleged pollution from further discharges causing such danger and to take such other action as may be necessary.

Section 505, entitled "Citizen Suits," provides that any person may commence a civil action (1) against any person alleged to be in violation of an effluent standard, limitation or administrative order issued under the Act, or (2) against the Administrator when it is alleged that he has failed to perform any non-discretionary act or duty under the Act. Safeguards are provided to prevent unnecessary or frivolous actions.

We generally agree with the provisions of Section 505. However, we would recommend that provisions allowing unlimited public intervention in all government litigation Section 505(b)(B) be deleted.

Section 507, entitled "Employees Protection," provides that no person shall discharge or in any other way discriminate against any employee of an alleged violator by reason of the fact that such employee has instituted a proceeding under the Act, or has testified or is about to testify in any proceeding under the Act. Alleged violators of this Section would be investigated by the Secretary of Labor.

Section 508, entitled "Federal Procurement," provides generally that no Federal agency may enter into any contract for the procurement of goods, materials or services with any person who is convicted of an offense under the Act, when such contract is to be performed at any facility at which the violation giving rise to the conviction occurred.

Section 510. The Act would preserve the authority of States and their political subdivisions to adopt and enforce their own water pol-

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lution control standards, limitations, requirements and prohibitions, except those which are less stringent than those established under the Act.

We generally support these provisions.

Section 511 deals with the effect of the bill on other existing statutes. In two respects the language of the section presents difficulties.

First, Section 511(b) would, in effect, waive the applicability of the Fish and Wildlife Coordination Act to activities covered by the Federal Water Pollution Control Act, except for three limited provisions specifically set out in the subsection. We are unaware of any special difficulties to which the Fish and Wildlife Coordination Act requirements have arisen and accordingly we recommend that Section 511(b) be deleted from the bill.

Second, Section 511(d)(2) overlooks the fact that many States, for various reasons, may waive the certification. The effect of 511(d)(2) as drafted would probably be to require compliance with NEPA for Refuse Act or Section 402 permits, wherever State certification was waived.

In addition, EPA concurrence in a State-issued permit could be regarded as a significant Federal action requiring compliance with NEPA, unless 511(d) is drafted to cover such action.

Section 511(d)(2) should be amended to read as follows:

"(2) by the issuance of a permit under Section 402 of this Act, or any license of permit pursuant to Section 13 of the Act of March 10, 1899, for the operation of any activity which may result in any discharge into the navigable waters of the United States."

Section 514 provides for the appointment of an Effluent Standards and Water Quality Information Advisory Committee, which would be required to advise the Administrator regarding standards and information.

We do not favor the legislative establishment of such an advisory committee. We would prefer administrative flexibility in obtaining advice from scientists, economists, environmentalists, and representatives of other disciplines.

Section 515 calls for an annual report to the Congress on the measures taken in implementing the Act and of the costs involved in carrying out the Act, including an assessment of waste treatment construction needs.

We support these provisions.

Section 516 provides for general authorizations.

In this regard, we would point out that EPA has not made a detailed estimate of the costs necessary to implement the provisions covered by this Section.

Section 517 provides for short title, "Federal Water Pollution Control Act".

Section 3 calls for an oversight study by the Comptroller General.

We have no objection.

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Section 4 calls for an international trade study by the Secretary of Commerce.

We feel that such a study should include EPA as a joint participant.

Section 5 calls upon the President to enter international agreements to apply uniform standards and controls over pollutants.

We support this provision.

Section 6 would amend the Small Business Act to provide for loans to small businesses to assist in the purchase of treatment control equipment needed to comply with standards and requirements. $800 million is authorized to be appropriated for this purpose.

We oppose this provision.

Section 7. The President acting through the Attorney General is to study the feasibility of establishing an Environmental Court.

We see no need for such a court system.

Section 8 authorizes a study by the President of the relationships between various national goals being set by statutes and otherwise, and requests as recommendation as to how these should be reconciled.

We support the concept of periodic reviews of the relationships of the various national goals. We would point out that the review of relationships and weighing of priorities among competing national goals are already being carried out. Results emerge in the form of the President's legislative program, the annual budget, and special messages to the Congress. Accordingly, we see no necessity for additional authorization for such studies.

Section 9 calls upon the President to conduct a study to determine how the resources of the Federal Government can best be used to carry out the purposes of this Act.

We have no objection to this provision.

Section 10 provides for the establishment of the Environmental Financing Authority corresponding to the Administration's proposal in this regard (H.R. 5970).

We fully support this provision. It would permit municipalities which would otherwise be unable to market bonds on the open market, to obtain financing through the mechanism of EPA and thus be able to provide its non-Federal share of the cost of construction of needed waste treatment plants.

Conclusion

Although we endorse many of the purposes of the bill, we nevertheless have numerous difficulties and objections described above. Accordingly, we would not recommend that the bill be enacted unless it is amended in accordance with the views and recommendations above.

The Office of Management and Budget advises that it concurs in the views set forth in this letter and that enactment of H.R. 11896 is recommended if amended as suggested herein.

Sincerely,

WILLIAM D. RUCKELSHAUS,
Administrator.

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EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., December 13, 1971.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of November 23, 1971 requesting the views of the Office of Management and Budget on H.R. 11895 and H.R. 11896, identical bills to amend the Federal Water Pollution Control Act.

We sincerely appreciate the opportunity you have provided the Administration, as well as other interested parties, to comment upon this very important legislation. This Administration is fully committed to the development of a vigorous and effective water quality protection program, and we strongly urge the Committee to give careful consideration to the broad policy objectives and considerations set out in the December 7, 1971 testimony of Chairman Train, Chairman McCracken, and Administrator Ruckelshaus.

The Environmental Protection Agency also has submitted to your Committee a report (copy enclosed), outlining the Administration's specific recommendations with respect to the detailed provisions of the legislation. The Office of Management and Budget fully concurs in the views set forth in that report. Accordingly, before the legislation is reported by your Committee, we strongly recommend that it be amended to reflect the recommendations of the Environmental Protection Agency. If the bill is so amended, we would support its enactment.

Sincerely,

GEORGE P. SHULTZ, *Director.*

Enclosure.

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown in parallel columns as follows (new matter is printed in italic in the left column and existing law proposed to be omitted is shown in roman in the right column) :

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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 1981;

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FEDERAL WATER POLLUTION CONTROL ACT

* * * * * * *

DECLARATION OF POLICY

SECTION 1. (a) The purpose of this Act is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution.

(b) In connection with the exercise of jurisdiction over the waterways of the Nation and in consequence of the benefits resulting to the public health and welfare by the prevention and control of water pollution, it is hereby declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in preventing and controlling water pollution, to support and aid technical research relating to the prevention and control of water pollution, and to provide

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(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 and abate 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 and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement of pollution.

(c) It is further the policy of Congress that the Presi-

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Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution.[1]

The Secretary of the Interior (herinafter in this Act called "Secretary") shall administer this Act through the Administration created by section 2 of this Act, and with the assistance of an Assistant Secretary of the Interior designated by him, shall supervise and direct the head of such Administration in administering this Act. Such Assistant Secretary shall perform such additional functions as the Secretary may prescribe.

(c) Nothing in this Act shall 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.

dent, 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, control, and abatement 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 Administration 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, or effluent limitation 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.

(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating

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[1] Boldface material referring to the administration created by sec. 2 and providing for an assistant secretary now rendered inoperative pursuant in Reorganization Plan No. 3 of 1970.

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to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

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 abating or reducing 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 public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. 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

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COMPRENHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 3. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, and with the municipalities and industries involved, prepare or develop comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries thereof 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 public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. 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.

of storage for regulation of streamflow for the purpose of water quality control, 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 this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

(3) 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 water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

(4) Costs of water quality control 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.

(5) 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

(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 for the purpose of water quality control, 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 this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

(3) 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 water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

(4) Costs of water quality control 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.

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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 and abatement plan for a basin or portion thereof.

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

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(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 3 years, 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 and abatement plan for a basin.

(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin 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 area-wide 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 and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws re-

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(A) is consistent with any applicable water quality standards established pursuant to current law within the basin:

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

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

(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. 4. (a) The Administrator shall encourage cooperative activities by the States for the prevention and control of water pollution; encourage the enactment of improved and so far as practicable, uniform States laws relating to

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lating to the prevention and abatement 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 and abatement of pollution and as part of such programs shall—

(1) in cooperation with other Federal, State, and local agencies, conduct, and promote the coordination

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the prevention and control of water pollution; and encourage compacts between States for the prevention and control of water 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 water 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. 5. (a) The Administrator shall conduct in the Environmental Protection Agency and encourage, cooperate with, and render assistance to other appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, control, and prevention of water pollution. In carrying out the foregoing, the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and

other information as to research, investigations, and demonstrations relating to the prevention and control of water pollution, including appropriate recommendations in connection therewith;

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

(3) secure, from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a):

(4) 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 fellowships: *Provided*, That the Administrator shall report annually to the appropriate committees of Congress on his operations under this paragraph; and

(5) provide training in technical matters relating to the causes, prevention, and control of water pollution to personnel of public agencies, and other persons with suitable qualifications.

(b) The Administrator may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and research and make surveys con-

and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement 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 surveil-

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lance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, 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 July 1, 1973.

(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

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cerning any specific problem of water pollution confronting any State, interstate agency, community, municipality, or industrial plant, with a view of recommending a solution of such problem.

(c) The Administrator shall, in cooperation with other Federal, State, and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and bilogical water quality and other information insofar as such data or other information relate to water pollution and the prevention and control thereof.

(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):

(A) Practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of physical, chemical, and biological pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

(B) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological development; and

(C) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control water pollution not susceptible to other means of abatement.

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 section 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 on varying water quality and other information pertaining to pollution and the prevention and abatement thereof; and

(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement 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 Secretary of Health, Education, and Welfare.

(d) In carrying out the provisions of this section the

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(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 and control of water 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.

(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 water pollution problems (including additional waste treatment measures) with respect to such waters.

(g)(1) For the purpose of providing an adequate supply of 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 a pilot program, in cooperation with State and

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Administrator shall develop and demonstrate under varied conditions (including conducting such basis and applied research, studies, and experiments as may be necessary):

(1) Practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

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

(3) Methods and procedures for evaluating the effects on water quality and water uses of augumented streamflows to control pollution not susceptible to other means of abatement.

(c) 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 and control 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.

(f) The Administrator shall conduct research and technical development work, and make studies, with respect to

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interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, or 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, control, and abatement of water 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;

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 purposes of providing an adequate supply of 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.

(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 fellowship; and

(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of water 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 within eighteen months from the date of enactment of this subsection, 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, and control of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the

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(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, control, and abatement 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 fellowships; and

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

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construction of publicly owned research facilities for such purpose.

(i) The Administration shall—

"(A) 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 and control of oil pollution;

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

"(C) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used as dispersants or emulsifiers in the control of oil 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 Administrator 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 for toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Administrator shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any standards established under section 13

(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, and abatement 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;

activities; and

(3) from time to time, develop and publish in the Federal Register specifications and other technical

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of this Act. In carrying out this subsection the Secretary 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 deposition. 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 two years after the effective date of this subsection, develop and issue to the States for the purpose of adopting standards pursuant to section 10(c) 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) For the purpose of assuring effective implementation of standards adopted pursuant to paragraph (1) the President shall, in consultation with appropriate local,

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information on the various chemical compounds used

(2) publish from time to time the results of such 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

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State, and Federal agencies, public and private organizations, and interested individuals, conduct a study and investigation 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 a report on such investigation to Congress together with his recommendations for any necessary legislation within two years after the effective date of this subsection.

(m) (1) The Secretary 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, a comprehensive study 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 study 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 the above study, the Secretary 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 sup-

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 October 3, 1972, 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 [p. 189]

plement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

(3) The Secretary shall submit to the Congress a final report of the study authorized by this subsection not later than three years after the date of enactment of this subsection. Copies of the report shall be made available to all interested parties, public and private. The report shall include, but not be limited to—

(A) an analysis of the importance of estuaries to the economic and social well-being of the people of the United States and of the effects of pollution upon the use and enjoyment of such estuaries;

(B) a discussion of the major economic, social, and ecological trends occurring in the estuarine zones of the Nation;

(C) recommendations for a comprehensive national program for the preservation, study, use, and development of estuaries of the Nation, and the respective responsibilities which should be assumed by Federal, State, and local governments and by public and private interests.

(4) There is authorized to be appropriated the sum of $1,000,000 per fiscal year for the fiscal years ending June 30, 1967, June 30, 1968, June 30, 1969, June 30, 1970, and June 30, 1971 to carry out the purposes of this subsection.

(5) 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

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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 results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

(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 commer-

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intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a navigable or interstate 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.

(n) There is authorized to be appropriated to carry out this section, other than subsection (g) (1) and (2), not to exceed $65,000,000 per fiscal year for each of the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971. There is authorized to be appropriated to carry out subsection (g)(1) of this section $5,000,000 for the fiscal year ending June 30, 1970, and $7,500,000 for the fiscal year ending June 30, 1971. There is authorized to be appropriated to carry out subsection (g)(2) of this section $2,500,000 per fiscal year for each of the fiscal years ending June 30, 1970, and June 30, 1971.

cial 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. 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

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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 methods 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 and abating 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, abating, 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.

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(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 development 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) their relative engineering and technical feasibility, (2) their relative social and economic costs and bene-

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fits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of 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 repotred by the Administrator as soon as practicable, but not later than one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973 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, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

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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 and abating 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 pollution 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.

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GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of—

(1) assisting in the development of any project which will demonstrate a new or improved method of controlling the discharge into any waters of untreated or inadequately treated sewage or other wastes from sewers which carry storm waters or both storm water and sewage or other wastes, or

(2) assisting in the development of 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 for the purpose of reports, plans, and specifications in connection therewith.

(b) The Administrator is authorized to make grants to persons for research and demonstration projects for prevention of pollution of waters by industry including, but not limited to, treatment of industrial waste.

(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. 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 and containing pollutants so they will not migrate to cause water or other environmental pollution; and

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

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

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

(3) No grant shall be made for any project under this section unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

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

(1) No grant shall be made under this section in excess of $1,000,000;

(2) No grant shall be made for more than 70 per centum of the cost of the project; and

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(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 and abating 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, abating, 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

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(3) No grant shall be made for any project unless the Administrator determines that such project will serve a useful purpose in the development or demonstration of a new or improved method of treating industrial wastes or otherwise preventing pollution of waters by industry, which method shall have industry-wide application.

(e) For the purposes of this section there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1966, and for each of the next five succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purposes set forth in subsections (a) and (b) of this section, including contracts pursuant to such subsections for such purposes;

(2) for the fiscal year ending June 30, 1967, and for each of the next four succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in clause (2) of subsection (a); and

(3) for the fiscal year ending June 30, 1967, and for each of the next four succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in subsection (b).

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 the cost thereof as determined by the Administrator; and

(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) or (2) of subsection (a).

(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 $70,000,000 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).

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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;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

(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.

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GRANTS FOR WATER POLLUTION CONTROL PROGRAMS

SEC. 7 (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1961, $3,000,000 for each succeeding fiscal year to and including the fiscal year ending June 30, 1967, $5,000,000, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1971, $10,000,000 for grants to States and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

(b) The portion of the sums appropriated pursuant to subsection (a) for a fiscal year which shall be available for grants to interstate agencies and the portion thereof which shall be available for grants to States shall be specified in the Act appropriating such sums.

(c) From the sums available therefor for any fiscal year the Administrator shall from time to time make allotments to the several States, in accordance with regulations, on the basis of (1) the population, (2) the extent of the water pollution problem, and (3) the financial need of the respective States.

(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) 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 and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

(d) From each State's allotment under subsection (c) for any fiscal year the Administrator shall pay to such State an amount equal to its Federal share (as determined under subsection (h)) of the cost of carrying out its State plan approved under subsection (f), including the cost of training personnel for State and local water pollution control work and including the cost of administering the State plan.

(c) From the sums available therefor for any fiscal year the Administrator shall from time to time make allotments to interstate agencies, in accordance with regulations, on such basis as the Administrator finds reasonable and equitable. He shall from time to time pay to each such agency, from its allotment, an amount equal to such portion of the cost of carrying out its plan approved under subsection (f) as may be determined in accordance with regulations, including the cost of training personnel for water pollution control work and including the cost of administering the interstate agency's plan. The regulations relating to the portion of the cost of carrying out the interstate agency's plan which shall be borne by the United States shall be designed to place such agencies, so far as practicable, on a basis similar to that of the States.

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(f) The Administrator shall approve any plan for the prevention and control of water pollution which is submitted by the State water pollution control agency or, in the case of an interstate agency, by such agency, if such plan—

(1) provides for administration or for the supervision of administration of the plan by the State water pollution control agency or, in the case of a plan submitted by an interstate agency, by such interstate agency;

(2) provides that such agency will make such reports, in such form and containing such information, as the administrator may from time to time reasonably require to carry out his functions under this Act;

(3) sets forth the plans, policies, and methods to be followed in carrying out the State (or interstate) plan and in its administration;

(4) provides for extention or improvement of State or interstate program for prevention and control of water pollution;

(5) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan; and

(6) sets forth the criteria used by the State in determining priority of projects as provided in section 8(b)(4).

The administrator shall not disapprove any plan without first giving reasonable notice and opportunity for hearing to the State water pollution control agency or interstate agency which has submitted such plan.

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(f) 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.

(g) (1) Whenever the administrator, after reasonable notice and opportunity for hearing to a State water pollution control agency or interstate agency finds that—

(A) the plan submitted by such agency and approved under this section has been so changed that it no longer complies with a requirement of subsection (f) of this section; or

(B) in the administration of the plan there is a failure to comply substantially with such a requirement.

the administrator shall notify such agency that no further payments will be made to the State or to the interstate agency, as the case may be, under this section (or in his discretion that further payments will not be made to the State, or to the interstate agency, for projects under or parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure. Until he is so satisfied, the administrator shall make no further payments to such State, or to such interstate agency, as the case may be under this section (or shall limit payments to projects under or parts of the plan in which there is no such failure).

(2) If any State or any interstate agency is dissatisfied with the administrator's action with respect to it under this subsection, it may appeal to the United States court of appeals for the circuit in which such State (or any of the member States, in the case of an interstate agency) is located. The summons and notice of appeal may be served at any place in the United States. The findings of fact by the administrator unless contrary to the weight of the evidence, shall be conclusive; but the court, for

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good cause shown, may remand the case to the administrator to take further evidence, and the administrator may thereupon make new or modified findings of fact and may modify his previous action. Such new or modified findings of fact shall likewise be conclusive unless contrary to the weight of the evidence. The court shall have jurisdiction to affirm the action of the administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(h) (1) The "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the Federal share shall in no case be more than 66⅔ per centum or less than 33⅓ per centum, and (B) the Federal share for Puerto Rico and the Virgin Islands shall be 66⅔ per centum.

(2) The "Federal share" shall be promulgated by the Administrator between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(3) As used in this subsection, the term "United States" means the fifty States and the District of Columbia.

(4) Promulgations made before satisfactory data are available from the Department of Commerce for a full year on the per capita income of Alaska shall prescribe a Federal share for Alaska of 50 per centum and, for purposes of such promulgations, Alaska shall not be included as part of the "United States". Promulgations made thereafter but before per capita income data for Alaska for a full three-year period are available for the Department of Commerce shall be based on satisfactory data available therefrom for Alaska for such one full year or, when such data are available for a two-year period, for such two years.

(i) The population of the several States shall be determined on the basis of the latest figures furnished by the Department of Commerce.

(j) The method of computing and paying amounts pursuant to subsection (d) or (e) shall be as follows:

(1) The Administrator shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State (or to each interstate agency in the case of subsection (e)) under the provisions of such subsection for such period, such estimate to be based on such records of the State (or the interstate agency) and information furnished by it, and such other investigation, as the Administrator may find necessary.

(2) The Administrator shall pay to the State (or to the interstate agency), from the allotment available therefor, the amount so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State (or

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AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. 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, 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 from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

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such interstate agency) for any prior period under such subsection was greater or less than the amount which should have been paid to such State (or such agency) for such prior period under such subsection. Such payments shall be made through the disbursing facilities of the Treasury Department, in such installments as the Administrator may determine.

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

SEC. 14. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. 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.

(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(c) Federal participation in such projects shall be subject to the conditions—

(1) that the State or interstate agency 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, or personal property or services, the value of which shall be determined by the Administrator; and

(2) that the State or interstate agency 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.

(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

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(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(c) Federal participation in such projects shall be subject to the conditions—

(1) that the State or interstate agency 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, or personal property or services, the value of which shall be determined by the Secretary; and

(2) that the State or interstate agency 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.

(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

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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 abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

(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 authorizezd 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.

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POLLUTION CONTROL IN GREAT LAKES

SEC. 15. (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 preventiton of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of water pollution elimination or control.

(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 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 provide 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 sources of in-place pollutants, including bottom loads, sludge banks, and polluted harbor dredgings.

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(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. 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

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TRAINING GRANTS AND CONTRACTS

SEC. 16. 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.

APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

SEC. 17. (1) A grant or contract authorized by section 16 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 16, and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 18.

(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.

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.

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.

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(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 subsection (a), 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 subsection (a).

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(2) The Administrator shall allocate grants or contracts under section 16 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 subsection (a), 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 subsection (a).

AWARD OF SCHOLARSHIPS

SEC. 18. (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 operations and maintenance of treatment works.

(3) The Administrator shall approve a program of an 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 as 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

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—

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development set forth by the applicant in an application, if any, submitted pursuant to section 16 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 subsection (a)) pay to the institution of higher education 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.

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(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 sti-

(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.

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pends paid to persons under subsection (a)) pay to the institution of higher education 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

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DEFINITIONS AND AUTHORIZATIONS

SEC. 19. (1) As used in sections 16 through 19 of this Act—

(A) The term "State" includes the District of Columbia, Puerto Rico, the Canal Zone, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(B) The term "institution of higher education" means

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, and June 30, 1974, to carry out sections 109 through 112 of this Act.

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.

(C) The term "academic year" means an academic year or its equivalent, as determined by the Administrator.

(2) The Administrator shall annually report his activities under sections 16 through 19 of this Act, including recomemndations for needed revisions in the provisions thereof.

(3) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for the fiscal year ending June 30, 1972, to carry out sections 16 through 19 of this Act (and planning and related activities in the initial fiscal year for such purpose). Funds appropriated for the fiscal year ending June 30, 1970, under authority of this subsection shall be available for obligation pursuant to the provisions of sections 16 through 19 of this Act during that year and the succeeding fiscal year.

ALASKA VILLAGE DEMONSTRATION PROJECTS

SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one

ALASKA VILLAGE DEMONSTRATION PROJECT

SEC. 20. (a) The administrator is authorized to enter into agreements with the State of Alaska to carry out one

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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 January 31, 1974, 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.

ECONOMIC GROWTH CENTERS

SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives

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or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of water 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 water 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 January 31, 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 $1,000,000 to carry out this section.

a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

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.

(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 technology and aerated treatment-spray-irrigation technology.

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GRANTS FOR CONSTRUCTION

SEC. 8. (a) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters and for the purpose of reports, plans, and specifications in connection therewith,

(b) Federal grants under this section shall be subject to the following limitations: (1) No grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator and unless such project is included in a comprehensive program developed pursuant to this Act; (2) no grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Administrator; (3) no grant shall be made unless the grantee agrees to pay the remaining cost; (4) no grant shall be made for any project under this section until the applicant has made provision satisfactory to the Administrator for assuring proper and efficient op-

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eration and maintenance of the treatment works after completion of the construction thereof; and (5) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs; (6) the percentage limitation of 30 per centum imposed by clause (2) of this subsection shall be increased to a maximum of 40 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 30 per centum of the estimated reasonable cost (as determined by the Administrator) of all projects for which Federal grants are to be made under this section from such allocation; (7) the percentage limitations imposed by clause (2) of this subsection shall be increased to a maximum of 50 per centum in the case of grants made under this section from funds allocated for a fiscal year to a State under subsection (c) of this section if the State agrees to pay not less than 25 per centum of the estimated reasonable costs (as determined by the Administrator) of all projects for which Federal grants are to be made under this section from such allocation and if enforceable water quality standards have been established for the waters into which the project discharges, in accordandce with section 10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

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(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)(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—

(c) In determining the desirability of projects for treatment works and of approving Federal financial aid in connection therewith, consideration shall be given by the Administrator to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof. The sums appropriated pursuant to subsections (d) for each fiscal year ending on or before June 30, 1965, and the first $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be al-

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lotted by the Administrator from time to time, in accordance with regulations, as follows: (1) 50 per centum of such sums in the ratio that the population of each State bears to the population of all the States, and (2) 50 per centum of such sums in the ratio that the quotient obtained by dividing the per capita income of the United States by the per capita income of each State bears to the sum of such quotients for all the States. All sums in excess of $100,000,000 appropriated pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1965, shall be allotted by the Administrator from time to time, in accordance with regulations, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State under the two preceding sentence which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b)(1) of this section and certified as entitled to priority under subsection (b)(4) of this section, shall be reallotted by the Administrator, on such basis as he determines to be reasonable and equitable and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made because of lack of funds including States having projects eligible for reimbursement pursuant to the sixth and seventh sentence of this subsection: Provided, however, that whenever a State has funds subject to reallocation and the Administrator finds that the need for a proj-

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ect in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant with respect to such project which will in his judgment reflect an equitable contribution for the need caused by such Federal institution or activity. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second, third, and fourth sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section, that in the case of any project on which construction was initiated in such State after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of this section but was constructed without such assistance, such allotments for any fiscal year ending prior to July 1, 1971, shall also be available for payments in reimbursement of State or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if such project had been approved pursuant to this section and adequate funds had been available. In the case of any project on which construction was initiated in such State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, such allotments shall also be available for payments in reimbursement of State

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or local funds used for such project prior to July 1, 1971, to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a findings by the Administrator that a project meets the requirements of this subsection, nor any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project. For purposes of this section, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce, and per capita income for each State and for the United States shall be determined on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

(d) There are hereby authorized to be appropriated for each fiscal year through and including the fiscal year ending June 30, 1961, the sum of $50,000,000 per fiscal year for the purpose of making grants under this section. There are hereby authorized to be appropriated, for the purpose of making grants under this section, $80,000,000 for the fiscal year ending June 30, 1962, $90,000,000 for the fiscal year ending June 30, 1963, $100,000,000 for the fiscal year ending June 30, 1964, $100,000,000 for the fiscal year ending June 30, 1965, $150,000,000 for the fiscal year ending June 30, 1966, $150,000,000 for the fiscal year ending June 30, 1967; $450,000,000 for the fiscal year ending June 30, 1968; $700,000,000 for the fiscal year ending June 30, 1969; $1,000,000,000 for the fiscal year ending

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(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

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June 30, 1970; and $1,250,000,000 for the fiscal year ending June 30, 1971. Sums so appropriated shall remain available until expended. At least 50 per centum of the funds so appropriated for each fiscal year ending on or before June 30, 1965, and at least 50 per centum of the first $100,000,000 so appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for grants for the construction of treatment works servicing municipalities of one hundred and twenty-five thousand population or under.

(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.

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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 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. 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.

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(e) The administrator shall make payments under this section through the disbursing facilities of the Department of the Treasury. Funds so paid shall be used exclusively to meet the cost of construction of the project for which the amount was paid. As used in this section the term "construction" includes preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

(f) Notwithstanding any other provisions of this section, the administrator may increase the amount of a grant made under subsection (b) of this section by an additional 10 per centum of the amount of such grant for any project which has been certified to him by an official State, metropolitan, or regional planning agency empowered under State or local laws or interstate compact to perform metropolitan or regional planning for a metropolitan area within which the assistance is to be used, or other agency or instrumentality designated for such purposes by the Governor (or Governors in the case of interstate planning) as being in conformity with the comprehensive plan developed or in process of development for such metropolitan area. For the purposes of this subsection, the term

"metropolitan area" means either (1) a standard metropolitan statiscal area as defined by the Bureau of the Budget, except as may be determined by the President as not being appropriate for the purposes hereof, or (2) any urban area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional and other activities, which in the opinion of the President lends itself as being appropriate for the purposes hereof.

(g) The administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects for which grants are made under this section 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. 1491; 40 U.S.C., secs. 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 Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

(b) 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 certifies that the quantity of available ground water will be insufficient to meet the future requirements for public water supply, unless effluents from publicly-owned treatment works, after adequate treatment, are injected into the ground to replenish the supply of ground water.

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(d)(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.

(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant 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 cov-

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ering 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.

LIMITATIONS AND CONDITIONS

SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(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 con-

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trol 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;

(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 performance, 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(d)(1) after June 30, 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

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costs of operation, maintenance (including replacement), and expansion 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; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

(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) Revenues derived from the payment of costs by industrial users of waste treatment services, to the extent

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costs are attributable to the Federal share of eligible project costs provided pursuant to this title, as determined by the Administrator, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance wih 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.

ALLOTMENT

SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, 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 accordane 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 the table on page 18 of

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volume I of Senate Document 92–23 entitled "The Cost of Clean Water". 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. 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.

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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, 1971, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of setcion 8 of this in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of Federal funds or (2) with financial assistance authorized by such section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimburs : nt of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1974, to the maximum extent that assistance could been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and adequate funds had been available (including retroactive State participation).

(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 re-

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quirements of section 8 of this Act immediately 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 per centum of the cost of such project.

(c) 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.

(d) (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

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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 detremining 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, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

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

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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 publicatiton 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 appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization 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 coop-

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erate 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 mose 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) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

(5) Designations under this section shall be subject to the approval of the Administrator.

(b) (1) No later than two years 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.

(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

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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 carry out 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, agri-

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culturally related nonpoint sources of pollution, including 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; and

(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.

(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.

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(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, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

(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 partic-

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ipating 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 has been designated under this 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(d)(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

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not exceed 75 per centum of such costs in each succeeding fiscal year.

(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provided 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.

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BASIN PLANNING

SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a

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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 by a Governor or Governors under paragraphs (2) and (3) 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 under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

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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 indus-

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trial waste, including waste in combined storm water and sanitary sewer systems. Any applictaon 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.

(4) The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

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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 January 1, 1976, 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 January 1, 1976, 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

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ENFORCEMENT MEASURES AGAINST POLLUTION OF INTERSTATE OR NAVIGABLE WATERS

SEC. 10. (a) The pollution of interstate or navigable waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of any persons shall be subject to abatement as provided in this Act.

(b) Consistent with the policy declaration of this Act. State and interstate action to abate pollution of interstate or navigable waters shall be encouraged and shall not, except as otherwise provided by or pursuant to court order under subsection (h), be displaced by Federal enforcement action.

(c) (1) If the Governor of a State water pollution control agency files, within one year after the date of enactment of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate water or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Administrator determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof.

(2) If a State does not (A) file a letter of intent or (B) establish water quality standards in accordance with para-

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treatment as defined by the Administrator pursuant to section 304 (d) (1) of this Act; or,

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graph (1) of this subsection, of if the Administrator or the Governor of any State affected by water quality standards established pursuant to this subsection desires a revision in such standards, the Administrator may, after reasonable notice and a conference of representatives of appropriate Federal departments and agencies, interstate agencies, States, municipalities and industries involved, prepare regulations setting forth standards of water quality to be applicable to interstate waters or portions thereof. If, within six months from the date the Administrator publishes such regulations, the State has not adopted water quality standards found by the Administrator to be consistent with paragraph (3) of this subsection, or a petition for public hearing has not been filed under paragraph (4) of this subsection, the Administrator shall promulgate such standards.

(3) Standards of quality established pursuant to this subsection shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. In establishing such standards the Administrator, the Hearing Board, or the appropriate State authority shall take into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. In establishing such standards the Administrator, the Hearing Board, or the appropriate State authority shall take into consideration their use and value for navigation.

(C) not later than January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

(4) If at any time prior to 30 days after standards have been promulgated under paragraph (2) of this subsection, the Governor of any State affected by such standards petitions the Administrator for a hearing, the Administrator shall call a public hearing, to be held in or near one or more of the places where the water quality standards will take effect, before a Hearing Board of five or more persons appointed by the Administrator. Each State which would be affected by such standards shall be given an opportunity to select one member of the Hearing Board. The Department of Commerce and other affected Federal departments and agencies shall each be given an opportunity to select a member of the Hearing Board and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Environmental Protection Agency. The members of the Board who are not officers or employees of the United States, while participating in the hearing conducted by such Hearing Board or otherwise engaged on the work of such Hearing Board, shall be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per diem, including travel time, 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. Notice of such hearing shall be published in the Federal Register and given to the State water pollution control agencies, interstate agencies and municipalities involved at least 30 days prior to the date of such hearing. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as

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(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls, as determined in accordance with regulations issued by the Administrator

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to whether the standards published or promulgated by the Administrator should be approved or modified and transmit its findings to the Administrator. If the Hearing Board approves the standards as published or promulgated by the Administrator, the standards shall take effect on receipt by the Administrator of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the Standards as published or promulgated by the Administrator, the Administrator shall promulgate revised regulations setting forth standards of water quality in accordance with the Hearing Board's recommendations which will become effective immediately upon promulgation.

(5) The discharge of matter into such interstate waters or portions thereof, which reduces the quality of such waters below the water quality standards established under this subsection (whether the matter causing or contributing to such reduction is discharged directly into such waters or reaches such waters after discharge into tributaries of such waters), is subject to abatement in accordance with the provisions of paragraph (1) or (2) of subsection (g) of this section, except that at least 180 days before any abatement action is initiated under either para-

graph (1) or (2) of subsection (g) as authorized by this subsection, the Administrator shall motify the violators and other interested parties of the violation of such standards. In any suit brought under the provisions of this subsection the court shall receive in evidence a transcript of the proceedings of the conference and hearing provided for in this subsection, together with the recommenations of the conference and Hearing Board and the recommendations and standards promulgated by the Administrator and such additional evidence, including that relating to the alleged violation of the standards, as it deems necessary to a complete review of the standards and to determination of all other issues relating to the alleged violation. The court, giving the consideration to the practicability and to the physical and economic feasibility of complying with such standards, shall have jurisdiction to enter such judgment and orders enforcing such judgment as the public interest and the equities of the may require.

(6) Nothing in this subsection shall (A) prevent the application of this section to any case to which subsection (a) of this section would otherwise be applicable, or (B) extend Federal jurisdiction over water not otherwise authorized by this Act.

(7) In connection with any hearings under this section no witness or any other person shall be required to divulge trade secrets or secret processes.

(d) (1) Whenever requested by the Governor of any State or State water pollution control agency, or (with the concurrence of the Governor and of the State water pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the

pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph.

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Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

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Administrator shall, if such request refers to pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originates, give formal notification thereof to the water pollution control agency and interstate agency, if any, of the State or States where such discharge or discharges originate and shall call promptly a conference of such agency or agencies and of the State water pollution control agency and interstate agency, if any, of the State or States, if any, which may be adversely affected by such pollution. Whenever requested by the Governor of any State, the Administrator shall, if such request refers to pollution of interstate or navigable waters which is endangering the health or welfare of persons only in the requesting State in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the water pollution control agency and interstate agency, if any, of such State and shall promptly call a conference of such agency or agencies, unless, in the judgment of the Administrator, the effect of such pollution on the legitimate uses of the waters is not of sufficient significance to warrant exercise of Federal jurisdiction under this section. The Administrator shall also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) and endangering the health or welfare of persons in a State other than that in which the discharge or discharges originate is occurring or he finds that substan-

tial economic injury results from the inability to market shellfish or shellfish products in interstate commerce because of pollution referred to in subsection (a) and action of Federal, State, or local authorities.

(2) Whenever the Administrator, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) of this section which endangers the health or welfare of persons in a foreign country is occurring, 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 in which such discharge or discharges originate and to the interstate water pollution control agency, if any, and shall call promptly a conference of such agency or agencies, if he believes that such pollution is occurring in sufficient quantity to warrant such action. 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 conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State water pollution control agency. This paragraph shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention and control of water pollution occurring in that country as is given that country by this paragraph. Nothing in this paragraph 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

(c) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be revised at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

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(d) 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.

(e) 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.

(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet effluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification 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 periods ends first.

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Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of water pollution in waters covered by those treaties.

(3) The agencies called to attend such conference may bring such persons as they desire to the conference. In addition, it shall be the responsibility of the chairman of the conference to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the conference. Not less than three weeks' prior notice of the conference date shall be given to such agencies.

(4) Following this conference, the Administrator shall prepare and forward to all the water pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of pollution of interstate or navigable waters subject to abatement under this Act; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

(e) If the Administrator believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the appropriate State water pollution control agency that it take necessary remedial action. The Administrator shall allow at last six months from the date he makes such recommendations for the taking of such recommended action.

(f)(1) If, at the conclusion of the period so allowed, such remedial action has not been taken or action which

in the judgment of the administrator is reasonably calculated to secure abatement of such pollution has not been taken, the Administrator shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a Hearing Board of five or more persons appointed by the Administrator. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of the Hearing Board and at least one member shall be a representative of the Department of Commerce, and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Environmental Protection Agency. At least three weeks' prior notice of such hearing shall be given to the State water pollution control agencies and interstate agencies, if any, called to attend the aforesaid hearing and the alleged polluter or polluters. It shall be the responsibility of the Hearing Board to give every person contributing to the alleged pollution or affected by it an opportunity to make a full statement of his views to the Hearing Board. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether effective progress toward abatement thereof is being made. If the Hearing Board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the administrator concerning the measures, if any which it finds to be reasonable and equitable to secure abatement of such pollution. The Administrator shall send such findings and

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WATER QUALITY RELATED EFFLUENT LIMITATIONS

SEC. 302. (a) Whenever, in the judgment of a State or 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, effient 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.

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recommendations to the person or persons discharging any matter causing or contributing to such pollution, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution, and shall also send such findings and recommendations and such notice to the State water pollution control agency and to the interstate agency, if any, of the State or States where such discharge or discharges originate.

(2) In connection with any hearing called under this section the Administrator is authorized to require any person whose alleged activities result in discharges causing or contributing to water pollution to file with him, in such form as he 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 Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as the Administrator may prescribe, unless additional time be granted by the Administrator. No person shall be required in such report to divulge trade secrets or secret

processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

(3) If any person required to file any report under paragraph (2) of this subsection shall fail to do so within the time fixed by the Administrator 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 $100 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 brought in the district 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 paragraph and he shall have authority to determine the facts upon all such applications.

(4) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

(g) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Administrator—

(1) in the case of pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges

(b) (1) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intend to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the persons submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, 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, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental 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.

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(2) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State 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, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the

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(causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States to secure abatement of pollution, and

(2) in the case of pollution of waters which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, may, with the written consent of the Governor of such State, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution.

(h) The court shall receive in evidence in any such suit a transcript of the proceedings before the Board and a copy of the Board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the cause may require.

(i) Members of any Hearing Board appointed pursuant to subsection (f) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such Board or otherwise engaged on the work of such Board, be entitled to receive compensation at a rate fixed by the administrator, but not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they

economic, social, and environmental 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.

(3) 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, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

(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.

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.

(j) As used in this section the term—

(1) "person" includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State, and

(2) "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(k)(1) At the request of a majority of the conferees in any conference called under this section the administrator is authorized to request any person whose alleged activities result in discharges causing or contributing to water pollution, to file with him a report (in such form as may be prescribed in regulations promulgated by him) based on existing data, furnishing such information as may reasonably be requested 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. No person shall be required in such report to divulge trade secrets or secret processes, and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by regulations for filing the same, and such failure shall continue for thirty days after notice of such default, such person may, by order of a majority of the conferees, be subject

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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

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to a forfeiture of $100 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 brought in the district 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 and he shall have authority to determine the facts upon all such applications.

(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

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

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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 requirements. 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,

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(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, pro-

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pagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses, 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.

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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.

(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

(d)(1) 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. Each State shall establish for the waters so identified, and in accordance with the priority ranking, 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. Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hunded eighty days after the date of publication of the first identification of pollutants under section 304(a)

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(2)(D), for his approval the waters identified and the load established under paragraph (1) 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 its current plan under subsection (e) of this section.

(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish 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, at a level that would implement the water quality standards.

(e)(1) Each State shall have a continuing planning process approved undr 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 ap-

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proval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after th 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)(B), 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 areawide 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;

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(F) adequate implementation, including schedules of compliance, for revisd 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.

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

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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 natural 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 and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) 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.

(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 enact-

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ment 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 any 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 take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate;

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological charac-

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teristics of pollutants, the degree of effluent reduction attainable through the application of the best available demonstrated controls measures and practices 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 demonstrated technology shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, 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 one year after enactment of this title (and from time to time thereafter) information

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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, 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

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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) (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

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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, or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(g) 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) The Administrator shall (1) within ninety 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 ninety 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;

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(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) The Administrator shall, within one year 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 waterlakes.

(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 sup-

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plement 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. Sums so appropriated shall remain available until expended.

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 July 1, 1973, which shall—

(1) describe the specific quality, during 1972, 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 analysis 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

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shellfish, fish, and wildlife and allow recreational activities in and on the water;

(B) can reasonably be expected to attain such level by 1976 or 1981; 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 July 1, 1974, and shall bring up to date each year 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 provides 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

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objectives and for what waters such additional action is necessary;

(D) an estimate of (i) the economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievement; and (iii) 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 April 1, 1975, and annually thereafter.

NATIONAL STANDARDS OF PERFORMANCE

SEC. 306. (a) For purposes of this section:

(1) The term "standard of performance" means a standard fon 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 or modification of which is commenced after the

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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 "modification" means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants, discharged by a source.

(6) 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;

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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;
ironferrous 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

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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 factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the

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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) 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 the receiving 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 para-

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graph (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 the receiving 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.

(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

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which the effluent standard (or prohibition) shall apply.

(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.

(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.

(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, 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.

(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. 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

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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, or otherwise is incompatible with such works.

(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.

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 require-

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ment 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) to 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 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

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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.

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, 308, or 316 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 commenred 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

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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.

(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, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, 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

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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.

(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 district 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, 308, or 316 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, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of

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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 505(5) of this Act, any responsible corporate officer.

(d) Any person who violates section 301, 302, 306, 307, 308, or 316 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.

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(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State

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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.

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.

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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 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.

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(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 the section, if made public would divulge trade secrets or secret processes of such persons, 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 very 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

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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 traveltime) 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.

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CONTROL OF POLLUTION BY OIL

SEC. 11. (a) For the purpose of this section, the term—

(1) "oil" means oil of any kind or 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, American 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;

SEC. 311. (a) For the purpose of this section, the terms—

(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, American 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;

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(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.

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(7) "person" includes an individual, firm, corporation, association, and a partnership;

(8) "remove" or "removal" refers to removal of the oil 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.

(b) (1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(2) The discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (3) of this subsection, is prohibited, except (A) in the case of such discharges 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.

(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.

(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, 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 is itself actually removable.

(ii) 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 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 disposal 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

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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 disposal characteristics of such substance.

(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 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

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(3) 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 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.

(4) 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 from such vessel or facility in violation of paragraph (2) 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

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 (2) 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 (2) of

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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.

(5) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil is knowingly discharged in violation of paragraph (2) 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 $10,000 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 vessel 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.

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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 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 vessel 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, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, 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

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(c)(1) Whenever any oil is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to removal of oil pursuant to this subsection. Such National Contingency 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 pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil discharges, including containment, dispersal, and removal of oil, 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 pollution control equipment and material, and a detailed oil pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil to the appropriate Federal agency;

the vessel, onshore facility, or offshore facility from which the discharge occurs.

(2) Wtihin 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;

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(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; and

(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.

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.

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(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or

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(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

(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 delagate, 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.

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 actions to minimize damage from oil 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 has created a substantial threat of a pollution hazard to the public health or wel-

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.

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fare 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 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 provision of law governing the employment of personnel or the expenditures of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purpose of subsection (f) in the removal of oil.

(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 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.

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(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 notwithstanding any other provisions 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 $14,000,000, whichever is lesser, 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

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(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 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 by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, 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, 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

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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 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 by the United States Government in an amount not to exceed $8,000,000, 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 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

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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, 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, 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.

(g) 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

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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 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 by the United States Government in an account not to exceed $8,000,000, 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 a facility in any court of competent jurisdiction to recover such costs.

(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil is discharged in violation of subsection (b)(2) of this section proves that such discharge of oil 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

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 shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. 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

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under subsection (c) for removal of such oil 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 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. 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 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 part 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 part 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

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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 fund 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

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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.

(i) (1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil is discharged in violation of subsection (b) (2) of this section acts to remove such oil 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 fund 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

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 discharged 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 or 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 regulation, 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.

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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 discharged oil, (B) establishing criteria for the development and implementation of local and regional oil removal contingency plans, (C) establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and from onshore facilities and offshore facilities, and (D) governing the inspection of vessels carrying cargoes of oil and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from such vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility or 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 regulation, 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.

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(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 the 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.

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(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), (i), and (l) of this section and section 12 of this Act. 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 and section 12 of this Act. 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, 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 from the removal of any such oil.

(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 into any waters with 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

(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*

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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, 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

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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 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, 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 one year after the effective date of this section. 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 enact-

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 claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

ment 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 claimant, and which would have been available to him if an action has been brought against him by the owner or operator.

(4) The Secretary of Transportation, in consultation with the Administrator of EPA and the Secretaries of State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, and taking into account the results of the application of paragraph (1) of this subsection, shall conduct a study of the need for and, to the extent determined necessary.

(A) other measures to provide financial responsibility and limitation of liability with respect to vessels using the navigable waters of the United States;

(B) measures to provide financial responsibility for all onshore and offshore facilities; and

(C) other measures for limitation of liability of such facilities;

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for the cost of removing discharged oil and paying all damages resulting from the discharge of such oil. The Secretary of Transportation shall submit a report, together with any legislative recommendations, to Congress and the President by January 1, 1971.

CONTROL OF HAZARDOUS POLLUTING SUBSTANCES

SEC. 12. (a) The President shall, in accordance with subsection (b) of this section, develop, promulgate, and revise as may be appropriate, regulations (1) designating as hazardous substances, other than oil as defined in section 11 of this Act, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines of the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches; and (2) establishing, if appropriate, recommended methods and means for the removal of such substances.

(b) Sections 551 through 559, inclusive (other than section 553(c)), and 701 through 706, inclusive, of title 5, United States Code, shall apply to regulations issued under authority of this section.

(c) In order to facilitate the removal, if appropriate, of any hazardous substance any person in charge of a vessel or of an onshore or offshore facility of any kind shall, as soon as he has knowledge of any discharge of such sub-

stance from such vessel or facility, immediately notify the appropriate agency of the United States of such discharge

(d) Whenever any hazardous substance is discharged into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, unless removal is immediately undertaken by the owner or operator of the vessel or onshore or offshore facility from which the discharge occurs or which caused the discharge, pursuant to the regulations promulgated under this section, the President, if appropriate, shall remove or arrange for the removal thereof in accordance with such regulations. Nothing in this subsection shall be construed to restrict the authority of the President to act to remove or arrange for the removal of such hazardous substance at any time.

(e) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, onshore or offshore facility to any person or agency under any provision of law for damages to any publicly- or privately-owned property resulting from a discharge of any hazardous substance or from the removal of any such substance.

(f) (1) For the purpose of this section the definitions in subsection (a) of section 11 of this Act shall be applicable to the provisions of this section, except as provided in paragraph (2) of this subsection:

(2) For the purpose of this section, the term—

(h) Any moneys in the funds established by section 11 of this Act shall be available to the President to carry out the purposes of this section. In carrying out this section the President shall utilize the personnel, services, and facil-

ities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

(A) "remove" or "removal" refers to removal of the 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;

(B) "owner or operator" means any person owning, operating, chartering by demise, or otherwise controlling the operations of, a vessel, or any person owning, operating, or otherwise controlling the operations of an onshore or offshore facility; and

(C) "offshore or onshore facility" means any facility of any kind and related appurtenances thereto which is located in, on, or under the surface of any land, or permanently or temporarily affixed to any land, including lands beneath the navigable waters of the United States and which is used or capable of use for the purpose of processing, transporting, producing, storing, or transferring for commercial purposes any hazardous substance designated under this section.

(g) The President shall submit a report to the Congress, together with his recommendations, not later than November 1, 1970, on the need for, and desirability of, enacting legislation to impose liability for the cost of removal of hazardous substances discharged from vessels and onshore and offshore facilities subject to this section including

financial responsibility requirements. In preparing this report, the President shall conduct an accelerated study which shall include, but not be limited to, the method and measures for controlling hazardous substances to prevent this discharge, and the most appropriate measures for (1) enforcement (including the imposition of civil and criminal penalties for discharges and for failure to notify) and (2) recovery of costs incurred by the United States if removal is undertaken by the United States. In carrying out this study, the President shall consult with the interested representatives of the various public and private groups that would be affected by such legislation as well as other interested persons.

CONTROL OF SEWAGE FROM VESSELS

SEC. 13. (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 of the United States, 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 of the United States, 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,

MARINE SANITATION 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 intiated 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

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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;

(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

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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;

(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 5(j) of this Act, the administrator, after consultation with the Secretary of the department in which the Coast Guard is oper-

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 regualtions.

(c) (1) 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 regulating, 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 of the United States 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) 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

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tions 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.

(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, types, 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 devices 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 Administration and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the

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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.

(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, types, 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 devices 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) 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

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 promugation 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 respect to such vessel on the date of such compliance.

(3) 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

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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) 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 or any vessel subject to the provisions of this section. Upon application by a State, and where the Administrator determines that any applicable water quality standards require such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into those waters of such State which are the subject of the application and to which such standards apply.

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(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 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 certi-

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prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

fied 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 Coast 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 ma-

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rine 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.

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(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) 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

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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) 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 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 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 Administrator 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

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(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

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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, 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.

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 Coast 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

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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

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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 subsection (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 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 person charged in

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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 vessels, (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 action 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.

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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. 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 exemption 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.

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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.

(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 $100,000,000 for the fiscal year eending June 30, 1973; and $150,000,000 for the fiscal year 1974 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.

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NATIONAL ACADEMIES STUDY

SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, 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 1981 in section 301(b)(2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Notwithstanding the provisions of section 301(b)(2) of this title or any other provision of the Act to the contrary, effluent limitations, goals, and policies established for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

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REGULATION OF THERMAL DISCHARGES

SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and

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and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

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 pro-

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grams 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.

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

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will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under section 301(b) and 302, and there is not an applicable standard under sections 306 and 307, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) 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 deter-

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mined 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 application. 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

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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 of sections 301, 302, 306, 307, and 316 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, 306, 307, or 316 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

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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, 306, 307, or 316 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, 306, 307, or 316 of this Act.

(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

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(7) 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

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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 licenses or permittees, and to make an appropriate charge for such use. Moneys received from such licenses 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

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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. or any regulation under section 316 of this Act, 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 opportunty for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under section 301, 302, 306, 307, 308, 316, 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 carr'' out the provisions of this Act.

(2) The Administratov 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 there-

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under, 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 may 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 per-

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mit 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:

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(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) Except with respect to sources owned or operated by the United States, 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 an 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;

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(6) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

(7) 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; and

(8) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(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.

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(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 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 if the Administrator within sixty days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(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 subsection 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

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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) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

(h) 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.

(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 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, 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 treat-

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ment works prior to the finding that such condition was violated.

(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(l) 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, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, 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, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), 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 fail-

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ure of the applicant to furnish information reasonably required or requested in order to process the application.

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.

(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;

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(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 hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403(c)(1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the

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United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirement which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

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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 technologi-

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ADMINISTRATION

SEC. 22. (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) There are hereby authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to enable it to carry out its functions under this Act.

(d) Each recipient of 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.

(e) The Administrator of the Environmental Protection Agency 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.

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cal 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 appropriate 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.

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(f) (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 agency, 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 standards under this Act, and 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 by this subsection.

(3) The President of the United States, the Governor of the appropriate 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.

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, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term "pollutant" means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage,

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DEFINITIONS

SEC. 23. When used in this Act:

(a) The term "State water pollution control agency" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency.

(b) 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 of waters.

(c) The term "treatment works" means the various devices used in the treatment of sewage or industrial wastes of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof.

(d) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

(e) The term "interstate waters" means all rivers, lakes, and other waters that flow across or form a part of State boundaries, including coastal waters.

(f) The term "municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, and

garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other 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 the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

(7) The term "pollution" means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

(8) The term "navigable waters" means the navigable waters of the United States, including the territorial seas.

(9) 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.

(10) 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.

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an Indian tribe or an authorized Indian tribal organization.

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(11) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(12) 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 (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

(13) 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.

(14) The term "toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing tion, 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, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or agents, which after discharge and upon exposure, ingestheir offspring.

(15) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete

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fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or from which there is or may be a thermal discharge.

(16) 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.

(17) The term "thermal discharge" means the introduction of water into the navigable waters or the waters of the contiguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

(18) The term "discharge" when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

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

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SEC. 9. (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

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from among representatives of various State, 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

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among representatives of various State, interstate and local governmental agencies, of public or private interests contributing to, affected by, or concerned with water pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of water 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 apointment 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 but term commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceeding terms" for purposes of this sentence.

(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

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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 travel-time, 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, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person 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.

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at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $50 per diem, including travel-time, 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.

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

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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 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 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 re-

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straining 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 standard 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 applicable by reason of section 313 of this Act).

(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

(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

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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 field, 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

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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

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(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, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established 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 gives rise to such correction 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.

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(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) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 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

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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.

(b) Review of the Administrtor's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306 (b)(1)(C), (3) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or pro-

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mulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested person in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty 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 thirtieth day.

(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.

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STATE AUTHORITY

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, standard of performance, or thermal discharge regulation 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, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation 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

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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) The consultation and coordination requirements of the Act of March 10, 1934, as amended (16 U.S.C. 661, et seq.), shall apply under this Act only to the provisions of (1) section 306 of this Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

(c) 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.

(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and

(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

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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 Numbered 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).

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SEPARABILITY

SEC. 25. 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.

SEC. 26. (a) In order to provide the basis for evaluating programs authorized by this Act, the development of new programs, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1968, the Administrator, in cooperation with State water pollution control agencies, shall make a detailed estimate of the cost of carrying out the provision of this Act; a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain such water quality standards as established pursuant to this Act or applicable State law. The Administrator shall submit to such detailed estimate and such comprehensive study of such cost for the five-year period beginning July 1, 1968, to the Congress no later than January 10, 1968, such study to be updated each year thereafter.

(b) The Secretary shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this Act and other programs for the

same purpose as this Act, and (2) means of using existing Federal training programs to train such personnel. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1967.

AGRICULTURAL FACILITIES

SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

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

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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

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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

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but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide 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.

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(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.

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, 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.

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SHORT TITLE

SEC. 518. This Act may be cited as the "Federal Water Pollution Control Act".

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SHORT TITLE

SEC. 27. This Act may be cited as the "Federal Water Pollution Control Act".

FEDERAL WATER QUALITY ADMINISTRATION

[1] Sec. 2. Effective ninety days after the date of enactment of this section there is created within the Department of the Interior a Federal Water Quality Administration (hereinafter in this Act referred to as the "Administration"). The head of the Administration shall be appointed, and his compensation fixed, by the Secretary. The head of the Administration may, in addition to regular staff of the Administration, which shall be initially provided from the personnel of the Department, obtain, from within the Department or otherwise as authorized by law, such professional, technical, and clerical assistance as may be necessary to discharge the Administration's functions and may for that purpose use funds available for carrying out such functions; and he may delegate any of his functions to, or otherwise authorize their performance by, an officer or employee of, or assigned or detailed to, the Administration.

[1] Sec. 2 now obsolete.
The Federal Water Quality Administration in the Dept. of Interior was abolished by sec. 6(a) of Reorganization Plan No. 3 of 1970; all functions formerly administered by the Federal Water Quality Administration were transferred to the Administrator by the Reorganization Plan.

COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

SEC. 21. (a) Each Federal agency (which term is used in this section includes Federal departments, agencies, and instrumentalities) having jurisdiction over any real property or facility, or engaged in any Federal public works activity of any kind, shall, consistent with the paramount interest of the United States as determined by the President, insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property, facility, or activity. In his summary of any conference pursuant to section 10(d)(4) of this Act, the Administrator shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity. Notice of any hearing pursuant to section 10(f) of this Act involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property, facility, or activity involved, and the findings and recommendations of the hearing board conducting such hearings shall include references to any such discharges which are contributing to the pollution found by such board.

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(b) (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 of the United States, 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 there is reasonable assurance, as determined by the State or interstate agency that such activity will be conducted in a manner which will not violate applicable water quality standards. 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 such standards have been promulgated by the Administrator pursuant to section 10(c) of this Act, or 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

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been waived as provided in the proceeding 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 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 its water quality standards, and within such sixty-day period notifies the Administrator and the licensing of 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 hearings, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality standards. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

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(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 applicable water quality standards because of chances 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, or (C) the water quality standards applicable to such waters. 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 applicable water quality standards.

(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 of the United

States 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 Federal operating license or permit the license 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 water quality standards 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 water quality standards, 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 applicable water quality standards.

(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 section 10(h) of this Act that such facility or activity has been operated in violation of applicable water quality standards.

(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

(7) In any case where actual construction of a facility has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1970, no

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certification shall be required under this subsection for a license or permit issued after the date of enactment of such Act of 1970 to operate such facility, except that any such license or permit issued without certification shall terminate at the end of the three-year period beginning on the date of enactment of such Act of 1970 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 subsection.

(8) Except as provided in paragraph (7), any application for a license or permit (A) that is pending on the date of enactment of the Water Quality Improvement Act of 1970 and (B) that is issued within one year following such date of enactment shall not require certification pursuant to this subsection for one year following the issuance of such license or permit, except that any such license or permit issued shall terminate at the end of one year unless prior to that time the licensee or permittee submits to the Federal agency that issued such license or permit a certification and otherwise meets the requirements of this subsection.

(9)(A) In the case of any activity which will affect water quality but for which there are no applicable water quality standards, no certification shall be required under this subsection except that the licensing or permitting agency shall impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of this Act.

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(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Administrator, that such licensee or permittee has been notified of the adoption of water quality standards applicable to such activity and has failed, after reasonable notice of not less than six months, to comply with such standards, the license or permit shall be suspended until notification is received from such State or interstate agency or the Administrator that there is reasonable assurance that such activity will comply with applicable water quality standards.

(c) 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 applicable water quality standards. 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 water quality standards, 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 standards.

(d) 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 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.

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OTHER AUTHORITY NOT AFFECTED

SEC. 24. This Act shall not be construed as (1) superseding or limiting the functions, under any other law, of the Surgeon General or of the Public Health Service, or of any other officer or agency of the United States, relating to water pollution, or (2) affecting or impairing the provisions of sections 13 through 17 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors and for other purposes", approved March 3, 1899, as amended, or (3) affecting or impairing the provisions of any treaty of the United States.

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Additional 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 italics, existing law in which no change is proposed is shown in roman):

SECTION 4 OF THE SMALL BUSINESS ACT

SEC. 4. (a) * * *

* * * * * * *

(c)(1) There are hereby established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 7(b)(1), 7(b)(2), 7(b)(4), 7(b)(5), 7(b)(6), [and 7(c)(2)] *7(c)(2), and 7(g)* of this Act, including administrative expenses in connection with such functions; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 7(a), 7(b)(3), 7(e), and 8(a) of this Act, titles III and V of the Small Business Investment Act of 1958, and title IV of the Economic Opportunity Act of 1964, including administrative expenses in connection with such functions.

* * * * * * *

SEC. 7. (a) * * *

* * * * * * *

(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

(2) Any such loan—

(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

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(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection.

SECTIONS 3689 AND 5136 OF THE REVISED STATUTES OF THE UNITED STATES

SEC. 3689. There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purposes hereinafter specified, such sums as may be necessary for the same respectively; and such appropriations shall be deemed permanent annual appropriations.

EXECUTIVE

UNDER THE TREASURY DEPARTMENT

Consular receipts:

For the proceeds of the personal estates of American citizens who die abroad, to be paid to the legal representatives of the said deceased party upon proper demand and proof.

Interest on the public debt:

For payment of interest on the public debt, under the several acts authorizing the same.

Refunding moneys erroneously received and covered:

To refund moneys received and covered into the Treasury before the payment of legal and just charges against the same.

Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972.

* * * * * * *

SEC. 5136. Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

* * * * * * *

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personl security; and by obtaining, issuing, and circulating notes according to the provisions of this title. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided*, That the association may purchase for its own account investment securities

under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on the date of enactment of the Banking Act of 1935. As used in this section the term "investment securities" shall mean marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks, or obligations which are insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act or obligations which are insured by the Secretary of Housing and Urban Development (hereafter in this sentence referred to as the "Secretary") pursuant to section 207 of the National Housing Act, if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association *or obligations of the Environmental Financing Authority* or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Secretary in which the local public agency agrees to borrow from said Secretary, and said Secretary agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Secretary in which the public housing agency agrees to borrow from the Public Housing Administration, and the Secretary agrees to lend to the public housing agency, monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the

final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary if such contract shall contain the covenant by the Secretary which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank, or obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account, nor to bonds, notes and other obligations issued by the Tennessee Valley Authority or by the United States Postal Service: *Provided*, That no association shall hold obligations issued by any of said organizations as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and may make investments in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act.

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SEPARATE ADDITIONAL VIEWS OF TENO RONCALIO ON H.R. 11896

I believe that a serious, if not fatal, omission of H.R. 11896 is its failure to specifically exempt irrigated agriculture from the federal discharge permit system until adequate technology is developed to meet proper requirements. My concern is with Sections 208(b)(2)(F), 304(e), 306(b)(1)(B) and particularly Section 301 which states that unless otherwise authorized, "the discharge of any pollutant by any person shall be unlawful."

Accordingly, I shall at the proper time encourage an amendment to Section 302 to the effect that:

> The provisions of this Act prohibiting the discharge of pollutants and requiring a permit to discharge shall not be applicable to discharges resulting from agricultural irrigation. The purpose of this exclusion is to permit the development of an adequate technology and feasible methodology which will enable irrigation dischargers to meet the discharge and permit requirements of this Act.

I think it is common knowledge that the type of salinity problems created by irrigation wastes—even in the arid upper Colorado states which may well contribute to the overall salinity problem 1500 miles to the southwest—are simply not as alarming as the more common pollutants discharged by industrial and municipal facilities. Substantial salinity concentrations have little effect on recreational use of water or its suitability for the propagation of fish.

Moreover, the technology to control salinity resulting from irrigation use is not available. There is no feasible method of treating irrigation wastes in those cases when irrigation discharges can be isolated from natural sources of runoff. Usually it is impossible to locate a particular discharge and match it to the proper irrigator before it percolates into a ground water reservoir, or returns to the original stream.

The most insurmountable difficulties encountered, however, could be the administrative problems. The number of federal applications for all irrigation discharges would be staggering. In Wyoming alone, between 35,000 and 40,000 permits would be required. When applying for a federal discharge permit the burden of proof would be on the water user to show that the environment would not be harmed. For those who were not granted a permit, valuable property rights would be lost without compensation, and this involves serious implications for the courts.

Moreover, the massive bureaucracy needed to process the permit applications would have uncertain jurisdiction. Would it have to

completely supercede functioning state water right mechanisms in order to operate effectively? If so, the prior appropriation doctrine would be reduced to an unrecognizable shambles. This could cause disastrous instability throughout the West among current water right holders. The effect on investment incentives and property values is incalculable. At best, a phenomenal paper work logjam could be created with negligible improvement in water quality.

Even though effluent control may be chosen as the best method of controlling pollution contributed by industrial and municipal wastes, it does not appear at present to be a practical method of controlling non-point sources of salinity associated with irrigation. A better method of handling these problems may well be regional or basin-wide management of water resources. I believe the above amendment therefore would serve the best interests of improving the overall water quality throughout the nation, without imposing regulations that are necessary in one area, but will do irreparable harm in another.

TENO RONCALIO, *Wyoming.*

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ADDITIONAL VIEWS OF HON. BELLA S. ABZUG AND CHARLES B. RANGEL

Re House Public Works Committee Report on H.R. 11896—The Federal Water Pollution Control Act Amendments of 1972

A. General Comments

Our Nation's waters—our most precious natural resource—are rapidly being transformed into a vast, rancid sewer. Scarcely an uncontaminated body of water remains in the United States. A constant torrent of waste, mostly untreated, pours into our waterways from farms, factories, and cities. And despite Administration claims of progress, the situation is getting worse. Present Government programs are hopelessly inadequate.

Most of us assume that the sewage we flush down our plumbing pipes is being properly treated by some unknown, unseen plant at the other end. In fact, however, much of the human, industrial, and other wastes produced by Americans is dumped into our waterways with little or no treatment.

For example, more than 400 million gallons of human waste are dumped into the Hudson River every day after some chlorine has been added to kill the odor. Samples taken there recently showed the intestinal bacteria concentration to be 170 times the "safe" limit set by the Environmental Protection Agency (EPA).

Similar horror stories can be told about almost every other major American waterway. One midwestern river is so loaded with industrial wastes and oil that it is actually combustible. EPA has warned that touching or being splashed by water from the Potomac River is a health hazard.

In the case of many lakes, the damage is already almost irreversible. Much of Lake Erie, once the source of a thriving fishing industry, is now considered nearly "dead". Efforts to revive it have been thwarted by the Administration's recent reversal of policy on phosphates in detergents and its failure to budget adequate funds to restore it to health.

In every part of our country, industries and municipalities have used our waterways as cheap dumping grounds in which to unload their wastes. Some 12,000 potentially toxic chemicals are in industrial use today. Little information is available to the public on the dangers posed by these chemicals when they are improperly dispersed.

In a recent survey, one out of every three samples of drinking water taken by the Department of Health, Education, and Welfare's Bureau of Water Hygiene was found to be unsafe.

We do have a choice about all this. We can continue on our reckless way, or we can take steps—and they must be giant steps—to arrest the deterioration and to begin the job of cleaning up. It will not be cheap, because our efforts up to now have been almost completely ineffective.

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A recent study by the General Accounting Office concluded that the $2 billion spent since 1956 on pollution control have merely slowed the deterioration of water quality.

Wastes discharged into a waterway—albeit with some treatment—are pollutants. Wastes recycled or discharged on land can be a beneficial resource. We must halt the use of our waterways as a waste treatment system. The theory that our waterways can assimilate wastes is archaic and it should be abandoned.

The Federal Water Pollution Control Act, when enacted in 1956 through the efforts of our able and distinguished Chairman, John A. Blatnik of Minnesota, was a significant beginning toward pollution control in the fifties and early sixties. It repealed an earlier, ineffective 1948 law. But for the seventies and eighties it is clearly too weak and ineffective.

It has resulted in little or no reduction of water pollution in the late sixties. This has been due in large measure to a lack of adequate funding for the construction of waste treatment works, to various restrictions on the scope of the law and enforcement powers, most of which were carried over from the 1948 law, and inept administration. Even the water quality standards program enacted in 1965 has proven to be of little value. More than half of the States unilaterally extended time-tables for achieving the standards.

In 1969 and 1970, Congress began a slow process of rejuvenating the program to make it an effective anti-pollution tool with enactment of more realistic appropriations for municipal waste treatment grants and of the Water Quality Improvement Act of 1970. In 1970, the executive branch, too, began a more vigorous enforcement program, not under the Federal Water Pollution Control Act, but under the Refuse Act of 1899. In December 1970, EPA was established and the program transferred to it.

For nearly a year, the 92nd Congress has been working on a significant and complete revision of the 1956 law. The Senate, after much deliberation, passed a strong bill last November (S. 2770). Our Committee held twenty-two days of public hearings between July and November of last year. At the urging of the Administration, further hearings were held in December. After three days of executive sessions (December 14–16), the Committee ordered H.R. 11896 reported with amendments.

We voted to report this bill to the House with a favorable recommendation because we believe that, taken as a whole, it represents an improvement over the present Federal Water Pollution Control Act.[1]

It shifts the primary focus of water pollution control from water quality standards to effluent limitations. This significant change is necessary because of the great difficulty in establishing precisely who is responsible for polluting our waterways, and in setting discharge standards which will enable the waterway involved to improve in quality.

It institutes a system of user charges under which industries will pay for their use of water treatment facilities in proportion to the volume and strength of the waste products which they discharge.

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[1] We note that these views are being written on the basis of a Committee Print of the bill, dated Mar. 3, 1972. Consequently, they may not reflect with absolute accuracy the exact language of the measure as reported. We understand, however, that all language changes, if any, since that date are purely technical.

It authorizes massive outlays of capital for the construction of new waste treatment plants.

It provides funds to reimburse those progressive States and localities which have been in the forefront of pollution control efforts and have spent billions of dollars in reliance upon Federal promises of financial assistance.

It authorizes, in some circumstances, citizens' lawsuits to compel compliance with pollution standards and requirements.

It repeals the 1948 restrictions on enforcement of the law, and substitutes some better enforcement powers.

But there are also a number of provisions in the bill which are less progressive, and, if enacted, will stop, and even set back, our anti-pollution effort. They will result in protracted litigation and delays, cause many citizens to further doubt the credibility of Government, and, most important, adversely affect workers whose employers move their operations to States with weak anti-pollution laws.

We cannot support those provisions, most of which were identified in a letter from eleven Congressmen, dated February 24, 1972, to our Committee. The eleven Congressmen who signed that letter are:

Representative Henry S. Reuss
Representative Thomas M. Pelly
Representative John E. Moss
Representative Gilbert Gude
Representative John H. Dent
Representative Silvio O. Conte
Representative John D. Dingell
Representative John P. Saylor
Representative Lucien N. Nedzi
Representative Dante Fascell
Representative Floyd V. Hicks

The principal provisions of the bill which we object to are discussed and our recommendations thereon are set forth below:

B. H.R. 11896 Initially Sets Forth Water Quality National Goals and Effluent Limitations for 1981 and 1985, but Then Declares Them Null and Void Until Congress Passes a New Law, Sometime in the Future, to Reactivate Them.

The opening pages of H.R. 11896 state with great flourish:

> (1) *it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985, and*
>
> (2) *it is the national goal that whatever 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 1981.* [Italic supplied]

These are high sounding phrases. True, they are only "goals" and not a legislative mandate by the Congress. But even an expression of "goals" is a step in the right direction.

Later, in section 301 of the bill, the 1981 effluent goals are transformed from goals into statutory limitations, except as provided in section 315.

But our hopes are short-lived, for when we turn to section 315 of the bill, we find that the above quoted words no longer have even the status of goals.

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Simply stated, section 315 of the bill (a) calls for a study by the National Academy of Sciences (NAS) and the National Academy of Engineering (NAE) "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" for 1981. A report on the study must be sent to Congress within two years after enactment, probably in late 1973 or in 1974.

We support such a study of the "economic, social, and environmental effects" of achieving or not achieving the 1981 goals and effluent limitations under this bill. The more information we have, the better. We need to know as much as we possibly can about all of these matters.

But section 315 does not stop there. It then provides that until and unless (a) the study is completed and reported to Congress, and (b) Congress enacts a new law after receipt of that study and report, the 1981 limitations will never apply to any discharge source.

We take issue with this provision in section 315, because it renders effluent limitations ineffective. Putting off the establishment of these goals and requirements will

(1) impede our efforts to achieve clean water,

(2) make the clean-up program more costly than it would otherwise be,

(3) inhibit the development of the accurate information that we seek about the costs of pollution control, and

(4) reduce the credibility of the water pollution control program in the public's eyes.

The most obvious effect for industry of not establishing the 1985 "no-discharge" goals and the 1981 effluent limitations is that we are still relying on the old water quality standards approach to water pollution control. Under this approach, streams are given different use classifications which are then supposed to be reflected in the amount of pollution that is permitted.

We have seen a great deal of evidence indicating that this water quality standards system of regulation assumes more knowledge about our complex ecosystem than we actually have. The numerical criteria themselves are often largely arbitrary and serve mainly to fool the public into thinking everything is "safe". Also, the history of our water pollution control program suggests that State and Federal governments will continue to founder on the staggering complexity of this control system, which requires working mathematically back from the permitted pollution levels in a waterway to the effluent limitations at the point source needed to achieve them.

Up to now, this task has been difficult at best, impossible at worst. This complexity has the practical effect of shutting out the general public from meaningful involvement in the program. Citizens and citizen groups are too often ill-equipped to field the technical expertise it takes to effectively counter the assertions of pollutors and to monitor the government's performance.

We are not necessarily critical of some retention of water quality standards program as revised in section 303 of the bill. Stream standards can provide a necessary floor to our control requirements and also a check on their effectiveness. But water quality standards should not represent the limit of our aspirations.

As we said earlier, this Nation needs to get away from the archaic

notion that our public waterways can and should continue to be used as private sewers, with an 'assimilative capacity" to be exploited. The water quality standards program tends to perpetuate that notion. The way to protect our lakes, rivers, streams, and estuaries is to make pollutors return any water they borrow from the public in the same clean condition they found it. This is why we believe the 1985 "no-discharge" goal and the 1981 effluent limitations are such a vital part of this bill.

Criticism of these provisions has focused on the steeply rising marginal cost of conventional waste treatment at high removal percentages. These cost criticisms are unjustified since the 1981 requirements have a built-in safety valve against exorbitant costs. They specifically direct that industries are to eliminate their discharges of pollutants only when it can be done at a "reasonable cost". They also provide that the fallback requirement—best available technology—is to be implemented by "taking into account the cost of such controls".

Section 302's high water quality requirements go into effect only after a balancing of costs and benefits. We shouldn't add to the effect of these loopholes, which already look dangerously large, by removing the basic requirements altogether.

In addition, the debate over costs has completely missed the point, because the aim of the "no discharge" goal is to force us to turn away from the expensive conventional treatment systems (to which critics looked in making their cost estimates) wherever possible, and to look instead for ways to recycle our wastes and waste water for beneficial purposes. Available low-cost recycling methodology, such as land disposal and industrial closed-loop systems, were ignored by the Administration and other critics of the "no discharge" goal in making their cost estimates.

Putting off the establishment of the 1981 and 1985 goals and requirements will not save money; rather it will end up costing *more* in the long run. The technology which polluters install to comply with the bill's earlier 1976 requirements may not be compatible with the better methodology they will have to use later, when the more stringent requirements go into effect. Also, research on recycling techniques which could facilitate less costly achievement of the "no discharge" goal will not begin to take place with full vigor until we make those later goals and requirements definite. Industry has a right to know what will be asked of them later on.

By relaxing controls on industry in the post-1976 period, we may also be forcing higher costs on municipalities. Industries, that would normally join with municipalities to form large regional treatment systems if they are faced with having to comply with the 1981 requirements, will, without such requirements, be encouraged to meet the lower control requirements more cheaply on their own. If industries stay out of these regional systems, economies of scale will be lost and the participating municipalities will face higher costs.

Postponing the establishment of the bill's later goals and requirements may, we fear, also make it more difficult to get the kind of accurate information about control costs that we need to make final decisions about where the program should be heading. By putting off their establishment until after the NAS/NAE study, the public will

have the burden of proving that polluters can afford to eliminate their pollution before we make them do it. But the polluters have all the information we need to make that judgment. Unless we give them some incentive to produce accurate information about costs, we will get only exaggerated estimates which cannot be verified.

Section 315 should be modeled on a presumption that polluters must install the most pollution-free systems. They, not the public, should bear the burden of demonstrating that the goals or requirements should be modified in some way. In other words, we should establish the goals and requirements now and let the information we get from the study modify them, if necessary.

Finally, by setting goals and requirements in one section of the bill and taking them back in another, we will appear to the public to be talking out of both sides of our mouths. As it stands, section 315 looks too much like the fine print on the classic marine insurance contract. We think we owe the public a forthright statement of what we are doing.

Is Congress so near-sighted that we cannot realize that constantly changing the ground rules for water pollution control leads only to uncertainty and chaos? Let us legislate for longer than three to five years. Certainly, a decade is not today a long period of time.

If the NAS/NEA study should show that the 1981 requirements and the 1985 goals need to be changed in some way, we are certain that Congress will take the necessary steps. Let the public know that we are not simply studying the problem. We are going ahead with our commitment to clean water.

We recommend appropriate amendments to the bill to make effective what we promise in section 102 of the bill.

C. The Bill Would Repeal President Nixon's Permit Program and Hand It Over to State Control After Enactment with No Guaranteed Federal Review of Permits Issued by States and No National Minimum Effluent Requirements for Each State Permit. This Will Surely Result in Some Companies Having a Competitive Advantage Over Others and Loss of Jobs.

I.

On December 23, 1970, President Nixon issued Executive Order 11574 establishing, under the Refuse Act of 1899, a mandatory permit systems for *all* industries discharging toxic and other wastes into the Nation's waterways. Under the order, the Corps of Engineers manages the program, but EPA is given final authority over whether a permit shall issue from a water quality standpoint.

Since July 1, 1971, when the program began, more than 20,000 permit applications have been received by the Corps of Engineers. 13,543 of these are now being reviewed by the Environmental Protection Agency. The program has already had some excellent results.

It has caused industrial plant officials to learn—some for the first time—about the composition and quantity of wastes poured daily into our waterways in a partially treated or untreated form.

It has led these same officials to take immediate steps to curtail these discharges and to plan and install better treatment, including, in some cases systems that recycle the wastes.

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It has given EPA an opportunity to learn more about what and where wastes are discharged into waterways.

It has identified and is limiting toxic constituents in treated water which were previously uncontrolled.

It has encouraged some industries to connect to municipal treatment systems for treatment of wastes.

Some specific examples of the positive aspects of the permit program are set forth at the conclusion of these views.

Most important, the permit program has created a climate in which local and State agencies can become more stern in their enforcement policies. Industry, to its great credit, has shown a new willingness to cooperate and to get the job done.

In a Wall Street Journal article of November 4, 1971, Kansas City's water pollution control director commented on the effect of the program as follows: "*The Federal permit program helped me do my policing job.*" [Italics supplied.]

Mr. John Quarles, EPA's Assistant Administrator and General Counsel, summarized this on November 5, 1971, when he said: (Hearings, House Conservation and Natural Resources Subcommittee, p. 1147):

> There have already been many positive results flowing from the permit program. Industries not previously aware of the exact nature or extent of their discharge have been required to examine and report on the permit application much information not previously known or reported. Many companies have discovered hazardous and toxic materials in their discharges whose presence was previously unsuspected.
>
> By studying the water quality characteristics of their present installations, some companies have been able to apply their experience in planning new facilities. Also, in reviewing plant processes, companies have turned up pipes and outfalls whose existence was previously unsuspected. Laboratory analyses of discharges have shown in some cases that treatment systems were not operating as effectively as was believed.
>
> Certain companies, as a result of the permit program, have been induced to take corrective measures to reduce or eliminate discharges on their own initiative prior to any specific permit requirements being imposed—e.g., connecting to municipal treatment systems; installing aeration lagoons; planning for pretreatment, recycling, and/or heavy metals recovery.

But H.R. 11896 would abandon all these successes for a much weaker program.

II

H.R. 11896 would eliminate President Nixon's permit program. In its place, a new EPA permit program would be established which would subsume the Refuse Act permit program, but this new program would be a mere shadow of the current one.

To be sure, EPA will be authorized—on paper to issue permits to discharge wastes, but it will have this power only with regard to States which do not want to issue permits.

The bill provides that the program will not rest at EPA. The musi-

cal chairs will continue. It will be dispersed to all *50* States, and be subject to little or no Federal control. In short, the bill dismantles the Federal Refuse Act permit program established by President Nixon and scatters the pieces to the States.

The result will be chaos and delay.

We heard loud laments from those who opposed the Refuse Act permit program. They said there would be from 100,000 to 300,000 applications which would bury EPA in paperwork. But these astronomical figures have not materialized.

In point of fact, there have been about 20,000 applications, a figure which EPA assures us represents 95 percent of the discharges into navigable waterways. EPA has been processing these applications with considerable vigor and is well on the way to completing the task of establishing the Refuse Act permit program.

The bill will delay the issuance of permits to industry, which will in turn delay installing effective treatment systems. The result: continued pollution of our waterways. Indeed, under this bill, it will be at least 1973 *before* the States can begin to handle this permit program. Can we afford to wait that long?

If continued, the Refuse Act permit program can insure a national approach to water quality. It will, as EPA states, avoid "giving some companies an advantage over others, depending on the State in which they are located." It will protect workers whose jobs are threatened by employers who move their production to avoid the strict anti-pollution standards and requirements of certain States.

A typical example of this sort of ecological blackmail is that of the Weyerhaeuser Corporation, which cited strict Washington State pollution standards as the reason for the recent closing of one of its ancient plants in the Puget Sound area. As a result, 300 workers, some of whom had been with the company for many years, were laid off, and the plant's production was moved to a newer facility in North Carolina.

This bill will encourage more such job losses, we fear.

III

Under the bill, EPA is merely a conduit. The States, not EPA will run the program.

Section 402(a)(5) of H.R. 11896 lets EPA, for 180 days after the bill becomes law, "authorize a State, which . . . has the capability of administering a permit program" to issue permits. To be sure, EPA must publish "guidelines establishing the minimum procedural and other elements" involved in the transfer of the permit program, but the bill offers only vague and indefinite examples of what is to be included in those guidelines, such as monitoring and reporting requirements and "enforcement provisions".

After this 180 day period, a State wishing to continue to issue permits must provide a better description of its permit program, but once that program has been approved, EPA's control over it and the permits issued under it will be almost non-existent.

EPA will have virtually no control over permits—

On the one hand (section 402(d)(1)) the bill tells the States to "transmit" to EPA a copy of each permit application and to keep

EPA apprised of each stage of the application proceedings. But on the other hand (section 402(e)), authorizes EPA "to waive" this requirement, as to "any category of point sources", when the State permit program has been approved.

Even if such a waiver is not given, EPA cannot "object" to the issuance of the permit unless the waters of a second State will be affected by such issuance and such second State "objects in writing" to its issuance (section 402(d)(2)). But even this shadow of Federal authority can be waived by EPA at the time the State receives approval of its permit program.

EPA's inadequate control over the State program—

Once a State permit program is approved by EPA, it can "withdraw approval" of the program only after notice, a public hearing, and a waiting period of at least 90 days. Even then, the bill does not *require* EPA to initiate withdrawal proceedings against a State that fails to comply with its approval conditions. Indeed, it is quite possible that any Administration would find it politically distasteful to compell a State to comply with the law.

Later, we will discuss the citizen suit provisions of this bill. We point out, however, that those provisions give citizens the right to sue EPA's Administrator to require EPA to perform any "duty" other than a "discretionary duty". However, the withdrawal authority of section 402(c)(3) of the bill is "discretionary". Until a public hearing is held, EPA is not required to "determine" that withdrawal is or is not appropriate. EPA's Administrator has total discretion as to whether or not a hearing shall be called.

Thus, under the bill, once EPA approves a State permit program (the EPA Administrator must act on it 90 days after receiving it from the State), all Federal ties to the permit program are severed. The State is not EPA's delegate. Even the policies and requirements of the National Environmental Policy Act of 1969 will not apply to the State permit program and environmental impact statements will therefore not be required.

EPA's powers to act against a discharger who violates the law will also be cut off. The bill, in section 402(*l*), specifically states that "compliance with a permit issued * * * shall be deemed compliance" with all other provisions of the bill, except those relating to toxic pollutants. Thus, once the State issues a permit to a polluter, EPA cannot abate his pollution unless it is toxic pollution. This is true even when EPA fully knows that the permit is hardly worth the paper it is written on.

IV.

We cannot support this almost total abdication of Federal responsibility for preventing the pollution of the Nation's navigable waterways, many of which cross State boundaries.

A permit program run by 50 different governments without any meaningful Federal control will become an environmental nightmare. It will encourage industries that dislike the tough permit administration of one State to relocate to a less progressive one. The result will be economic hardship for workers in States which effectively enforce their anti-pollution laws.

We recommend that section 402 be eliminated from the bill, and

that the present Federal permit program, established by Executive Order 11574, be retained.

If this is not done, and the States are allowed to issue permits, then, at the very least, the bill should give EPA authority

(a) to review all permit applications; and

(b) to prevent the issuance of any permit to which it objects

Further, the bill should require that EPA withdraw approval of any State permit program which is not being administered in accordance with the law and conditions of approval.

Congress should not be weaker than the President in this regard, but if we pass H.R. 11896 with section 402 as presently drafted, it will be.

D. The Bill Gives the Polluter Who Files an Application for a Permit Immunity Until 1976 From any Enforcement Action by EPA or a United States Attorney Under the Bill or the 1899 Refuse Act. This Effectively Repeals the Refuse Act as an Anti-Pollution Tool Against Continuing Waste Discharges

Section 402(l) of the bill provides that if a polluter files an application for a permit to discharge wastes into a waterway, that discharge "shall not be a violation" of the bill or the Refuse Act of 1899 until January 1, 1976, unless EPA or a State has acted finally on the application.

This may give many polluters *complete immunity* from prosecution, either civilly or criminally, for the next 4 years under the new bill and under the Refuse Act. The polluter can discharge such wastes as metals, salts, acids, cyanides, brines, grease, food product wastes, animal wastes, and textile and pulp and paper mill wastes in violation of the law with impunity.

This is folly.

President Nixon's regulations for enforcement of the Refuse Act permit program (33 CFR sec. 209.131(d)(4)) clearly state:

> All discharges or deposits to which the Refuse Act is applicable * * * are *unlawful unless authorized by an appropriate permit* * * *. Any such discharges or deposits not authorized by an appropriate permit *may result in the institution of legal proceedings* in appropriate cases for violation of the provisions of the Refuse Act. * * * *the mere filing of an application requesting permission to discharge or deposit* [wastes] *into navigable waters or tributaries thereof will not preclude legal action in appropriate cases for violation of the provisions of the Refuse Act.* [Italics supplied.]

Even with President Nixon's quite proper regulation, EPA or the Corps has not initiated a wholesale program of prosecuting those who filed for permits. There is no reason to expect that EPA will do so in the future. But the mere threat of such civil or criminal action is quite helpful to EPA and the Corps in insuring prompt compliance with the law.

The bill does not expressly repeal the Refuse Act of 1899, but this immunity provision has much the same effect—repeal of the 1899 law as an anti-pollution tool. The Government will be able to prosecute only the accidental, occasional polluter, but the egregious polluter will

go scot-free for four years if he applies for a permit and it is not acted upon quickly.

On September 24, 1971, our colleague, Congressman Henry S. Reuss of Wisconsin, testified before our committee and urged that the Refuse Act not be repealed or modified by H.R. 11896. He said (Hearings, pp. 2236–2237):

> I would not be here today but for the fact that in recent days witnesses for both the National Association of Manufacturers and the Administration testified before this committee and recommended amendments to the 1899 Refuse Act.
>
> The NAM witness, Dr. William Haun, recommended on September 13 that the Refuse Act be amended "so as to limit it to consideration of anchorage and navigation" only.
>
> If the NAM amendment were to be adopted, the Refuse Act would be "gutted" as an effective anti-pollution tool. Not even an empty shell would be left.
>
> The NAM amendment would take away an effective tool for citizen participation. The Refuse Act has become widely known, mainly because of its provision that an informer who gives information which "leads to a conviction" is entitled to one-half the fine. I myself have used this law to inform U.S. Attorneys in Wisconsin of scores of cases of polluting discharges by industry into our waterways. I have collected half the fine in several of the cases prosecuted thus far, and I have donated my share of the fines to help municipalities cure their municipal water pollution.
>
> Other citizens have also helped U.S. Attorneys throughout the Nation in providing information on polluting discharges. Under the permit program, they will be able to review permit applications and make their views known on them to the Corps and EPA at public hearings. When a discharger fails to file an application, the citizen can inform the U.S. Attorney who, according to a very recent report, is on the Corps' "backs every day" anxious to file actions against such dischargers. If a permit is issued, the citizen can monitor compliance and inform the Government of any violation.
>
> *Thus, the Refuse Act is a law that has stirred citizen interest and participation. It has also stirred the ire of many polluters. They are feeling the pinch of this simple one-paragraph law. One State witness who complained about its use recently said that "invoking of the 1899 Refuse Act . . . overnight, placed the Federal Government with boots and helmets in the front office of nearly every waste-discharging industry in the nation".*
>
> *I for one cannot think of a better place for the Federal Government to be if we are to halt the degradation of our waters. It is time—indeed, long overdue—that the industrial polluters of this nation felt the hot breath of the Government's army of enforcers, meek as they are.*
>
> The NAM recommendation would also result in abandoning the "No Polluting Discharge" standard of the 1899 law. The

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old "assimilative" capacity theory under which our waters are simply private sewers of the polluters would then continue to reign supreme.

Only three days after the NAM urged this gutting amendment, the Administration, following the NAM line, also testified before this Committee. The Administration witness began by extolling the virtues of the 1899 law and ended up by urging that it be emasculated.

* * * * * * *

Let's listen, not just to industry-oriented spokesmen, but to the public. I detect no great clamor from the public that the Refuse Act be amended or repealed, or that the Refuse Act permit program be transferred to the States. On the contrary, there is widespread public support for this law as it is because it is effective.

The League of Women Voters testified before this Committee on September 16 that the "Refuse Act permit system . . . be used to its fullest to help curb the sources of pollltion".

The Izaak Walton League of America also testified before this Committee on that same day, urging "retention of the Refuse Act permit system now in effect".

The Friends of the Earth also testified last August that it would "consider any language in new legislation unacceptable which relinquishes Federal authority for water pollution control under the 1899 Refuse Act to the States", and urged that Congress "not mitigate in whole or in part" the 1899 permit program.

Unlike the Federal Water Pollution Control Act, which has never been tested in court, the Refuse Act has been widely reviewed and interpreted by many courts. These judicial interpretations, including those of the Supreme Court, have enhanced its effectiveness as an anti-pollution tool. The courts have upheld injunctions to compel a polluter to stop polluting and to remove the wastes discharged, and judgments compelling the polluter to reimburse the United States for its expenses in removing refuse deposited by the polluter.

No one urges that the judicial interpretations are wrong. Yes, I have heard it said, by some lawyers representing industrial polluters, that the Refuse Act "was not intended by Congress to function as a pollution control device", but only to protect navigation because in 1899 "every municipality and industry dumped its raw wastes into the nearest stream". I marvel at the hindsight of these lawyers and their knowledge of the intent of Congress in 1899.

Every first year law student knows that legislative history has a bearing on the intent and meaning of a law only when the law itself is ambiguous. But the Refuse Act of 1899 is far from being ambiguous. Certainly, the courts have had no difficulty in this regard. They have uniformly held that the 1899 law applies to the polluting discharges of today.

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> Since this is so, I cannot perceive any reason to repeal or amend the law, except to achieve the negative objective of the NAM to cripple the law.
>
> Instead, Congress should applaud the Administration for adopting, after much prodding, the unanimous recommendations of the House Committee on Government Operations for vigorous enforcement of the 1899 law.
>
> Without the Refuse Act, the Administration would still be bogged down in lengthy procedures under the FWPC Act trying to stop the 10 mercury polluters from discharging that toxic material into our waterways. Similarly, the Justice Department would not have had an effective enforcement tool to halt the discharge of cyanide by the Armco Company into the Houston Ship Channel, or to control thermal heat discharges planned by a Florida power company into Biscayne Bay. In the latter case, the Government asserted that such discharges would have turned this national monument established by Congress into a "biological desert". [Italics supplied.]

Even more recently, the eleven Congressmen, including Mr. Reuss, who on February 24, 1972, wrote to our committee about this bill said:

> On January 29, 1972, an Assistant United States Attorney in New York told the New York State Bar Association that the 1899 law "has emerged as the primary pollution abatement statute for the simple reason that it, alone, has proven enforcible [and] that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment." In grading the Refuse Act, he said (Cong. Record, Feb. 24, 1972, p. E1632):
>
> It has and is creating a climate in which industry—the potential defendants—now feels a growing certainty that it can no longer pollute with impunity, and;
>
> "It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.
>
> "Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute."

We concur with his remarks.

The 1899 law has given concerned citizens and citizen groups an opportunity to participate with their Government in halting the pollution of our waters. If Congress effectively repeals the Refuse Act as an anti-pollution tool, the credibility of the Government's anti-pollution effort will be severely strained. [Italics supplied.]

We share our colleagues views.

We recommend (a) that section 402(l) of H.R. 11896 be deleted, and (b) that the Refuse Act not be repealed or modified as an anti-pollution tool.

The Senate-passed bill, S. 2770, does not contain a provision similar to section 402(l), nor does it repeal or modify the Refuse Act in this way.

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E. The Bill Seeks To Weaken the National Environmental Policy Act of 1969

Both H.R. 11896 and the Senate-passed bill, S. 2770, amend the National Environmental Policy Act of 1969. The language of both (Sec. 511(d)) differs in some measure.

The Senate version—itself far-reaching and the subject of a great debate over its meaning (See National Journal, Feb. 26, 1972, p. 342 *et seq.*)—weakens NEPA only in the cases involving "the construction of any activity which may result in any discharge into" navigable waterways. But H.R. 11896 contains no such limitation. Thus, it applies to dams licensed by the Federal Power Commission, and permits issued to strip coal on Indian and public lands, as well as discharges.

There is no justification for this further weakening of NEPA.

Section 511(d) of H.R. 11896, even without this further expansion, provides that the "requirements" of NEPA "as to water quality considerations shall be deemed to be satisfied" by a certification issued by a State with respect to Federal licenses or permits for the construction of "any activity" [whatever that means]. This would include licenses or permits issued by the Corps of Engineers, Environmental Protection Agency, Atomic Energy Commission, Federal Power Commission, and other agencies.

The eleven Congressmen, in their recent letter to our committee, commented on this provision, as follows:

> We are concerned about the meaning and scope of this provision. First, the word "requirements" includes the directives in section 102(1) of NEPA that all "policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies" of NEPA. Second, it includes the directives in section 102(2) of NEPA that all agencies "utilize a systematic, interdisciplinary approach" in planning and decision making "which may have an impact on man's environment." Third, this word includes the directives in section 102(2)(C) that a detailed environmental impact statement be prepared in the case of actions that "significantly" affect the quality of the environment. *Such an amendment would result in a serious weakening of NEPA and be disastrous for our environment.* [*Italics supplied.*]

We are in full agreement with their views and recommend that section 511(d) of the bill be deleted.

Secretary of the Interior Morton, at joint hearings before the Senate Interior and Public Works Committee on March 9, 1972, testified that he didn't *think the law* [NEPA] *needs changing. We have got to learn to administrate under it. I think we haven't given it a fair chance.*" (Italics supplied.)

We concur with the Secretary. His comments are sound.

After all, the law is just two years old. Many agencies only recently have established procedures for complying with it.

In the vast majority of agency actions, the agencies have prepared their draft and final environmental impact statements in accord with the law and if the project was environmentally sound then proceed with the projects. In only a relatively few instances, where the agency egreliously violated or failed to comply with the law, have courts

found it necessary to require the agencies to defer project action until they complied with the Act.

If there may be a need to clarify some of NEPA's provisions, we urge that this not be done hastily. Certainly, it should not be done in this heavy meat-ax manner.

The House Merchant Marine Committee, which has jurisdiction over NEPA will be holding hearings on it in the near future. Let that Committee consider that need and reocemmend the proper changes, after full public hearings.

F. H.R. 11896, Unlike S. 2770, Lets the Corps and the Bureau of Reclamation, Not EPA, Make Water Quality Decisions

Section 102(b) of the bill quite properly discourages the "inclusion of storage" water at a Corps or Reclamation Bureau reservoir project to regulate "streamflow for the purpose of water quality control."

The bill, also like present law, lets the Corps and the Bureau determine, with the advice of EPA, whether there is the "need for and the value of storage" for regulating streamflow for the purpose of water quality control.

But we believe that this determination should be made by EPA, rather than the other agencies. Only EPA is steeped in water quality knowledge.

The Senate bill recognizes this and gives EPA this responsibility.

It is interesting to note also that section 102(b)(5) of the bill specifically precludes the Federal Power Commission from including storage for that purpose in projects licensed by the FPC, *unless* such storage is recommended by EPA. Moreover, the stated purpose of the NEPA amendment referred to above is to let EPA and not other Federal agencies, make *all* water quality decisions.

We generally concur in that philosophy. Certainly, all Federal agencies should be aware of, and should consider, water quality matters, but undoubtedly EPA is best equipped to make final water quality determinations based on a complete record.

We recommend that section 102(b)(2) of H.R. 11896 be amended to require that EPA determine whether a Corps or Reclamation project should include storage of water for regulation of streamflow for the purpose of water quality control.

G. The Bill Unnecessarily Limits the Citizen's Ability to Participate in Civil Suits to Halt Pollution and to Require EPA To Enforce the Law

Section 505 of the bill provides that citizens may institute suits against polluters for the purpose of halting that pollution, and against the Administrator of EPA where he fails to perform "any act or duty . . . which is not discretionary." But section 505(g) of the bill largely curtails this power through the device of defining the term "citizen" so as to affect adversely a citizen's standing to sue.

First, a citizen must be "of the geographic area" *and* must have "a direct interest which is or may be affected" to initiate the suit.

The bill does not, however, define, either for the citizen or for the courts, what "geographic area" is involved, or what is the "direct interest . . . affected".

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Congress should not enact such vague and ambiguous language. Even if the committee's report, or debate on the floor, might be resorted to in order to explain these vague terms, Congress should not enact such ambiguous statutory language. Very few citizens have easy access to legislative history. They should be able to know their rights on the basis of the statutory language. Furthermore, even with the best legislative history, the enactment of vague statutory language is simply an invitation to the courts to disregard the intention of Congress and devise their own interpretations.

Under this definition, a citizen living in Ohio or Alabama, but owning recreational property along the shores of a waterway in another State, which such person uses from time to time, probably would not have standing to sue even though that citizen's property is "affected". Even if that citizen is "of the geographic area", the right to sue is further curtailed by the additional requirement that the citizen must have a "direct interest which is or may be affected". Such language may be construed as authorizing suits only by persons owning property which is directly affected by the pollution, and as not including those members of the public who use or may use and enjoy a waterway.

Second, another major defect in section 505(g) is that it also defines a "citizen" as including "any group of persons". That normally would be fine. But the definition does not stop there. It goes on to limit the "group of citizens" which may sue to prevent pollution by specifying that the group must have been "actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy". Thus, to prove its standing to go into court a group must not only show a "special interest" in the particular "geographic area", but must also prove that special interest by one particular method—namely—by having "actively engaged in the administrative process".

There are at least three grave deficiencies in this requirement:

(a) Suppose a hunting club, or any company for that matter, owns property which is being "directly affected" by the pollution or by EPA's violation of law or regulation. That club, or company, not being a "citizen", would not be included in the first definition, even though its property is directly affected. The only way it could preserve its right to go into court would be to "actively engage in the administrative process".

Such discrimination between the individual property owner and a group which owns property is unjustifiable and probably unconstitutional.

(b) But there is even a greater defect in the requirement of having "actively enagegd in the administrative process." The February 24 letter of the eleven members of Congress, pithily pointed out:

> All too often the administrative process is either clothed in secrecy, or affords so little time that citizen groups cannot adequately prepare to challenge a permit, or a polluting discharge, in the hurried administrative procedure. Then, having been edged out of the administrative proceeding, they will, under this bill, find themselves foreclosed from "standing" for seeking judicial relief.

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We are confident that the courts would be alert to invoke the doctrine of laches in the rare case where a group, despite ample notice and opportunity to prepare and participate in adequate administrative proceedings, nevertheless deliberately stayed out of those proceedings and intentionally endeavored to use the judicial process for purposes of delay. The bill need and should not limit the right of all citizens and groups to obtain judicial relief, merely in order to deal with this remote problem, if it, indeed, exists.

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(c) The words "actively engaged", special interest", and "geographic area in controversy" boggle the mind. What do they really mean? What criteria will be applied by the courts to determine (i) how much the group must do in the administrative proceeding to demonstrate that it was "actively engaged" therein; or (ii) whether the group's interest is "special" or not sufficiently "special"; or (iii) what is the extent of the "geographic area in controversy"?

These are all undefined and vague terms which will breed unnecessary and collateral controversy. They will unjustifiably hinder the right of citizen groups to obtain judicial relief from unlawful acts by pollutors and by EPA.

Third, section 505(g) is a drastic departure from the pattern and policy which the Congress has already adopted to enable citizens to go to court to protect the environment.

The Clean Air Act amendments of 1970 (Public Law 91–604) provide for citizen suits. Its provisions on citizen suits were virtually copied into the Water Pollution Control bill passed by the Senate (S. 2770) last November. And just this February, the House passed the Noise Control bill (H.R. 11021) which contained virtually identical citizen suit provisions. None of them had the restrictions that would be imposed by section 505(g) of H.R. 11896 which we are now considering. There is no reason or justification for a different rule in this bill.

The fundamental principle which is here relevant was concisely stated in the February 24 letter of the eleven Congressmen, as follows:

> The question of "standing" is peculiarly a judicial principle. It ought to be left to the courts to determine who has "standing" sufficient to complain about a substantive violation of law.

We recommend that section 505(g) of H.R. 11896 be deleted and that the entire section follow the pattern already adopted in the Clean Air Act and the noise control bill.

H. The Bill Would Emasculate the Fish and Wildlife Coordination Act

Section 511(b) of the bill with one stroke of the pen broadens the scope of the Fish and Wildlife Coordination Act and with another drastically restricts that law.

The bill specifically establishes that the policies and requirements of the Fish and Wildlife Coordination Act "*shall apply only to the provisions*" of the bill relating to (a) national standards of performance (sec. 306), (b) the publication of information (sec. 304), and

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(c) the establishment of guidelines (sec. 403). [Italic supplied.] It will not apply to:

(a) permits issued by EPA under section 402 of the bill; or

(b) permits issued by the Corps for dredged or fill material.

With this amendment, the Interior Department's Bureau of Sport Fisheries and Wildlife and the State fish and game agencies will no longer have statutory authority to review and comment on permit applications to discharge wastes or dredge and fill materials into the navigable waterways. There is no justification for eliminating such review and comment by these agencies.

We recommend the deletion of the word "only" in section 511(b). With this change, the Coordination Act will apply, as it does today, to those permits.

I. The Bill Strangles Progressive States In Regard to Sewage Discharge From Vessels

The dumping of human wastes from boats—particularly small and medium-sized pleasure craft—has become an increasingly acute problem in recent years. Individual States have differed as to whether to require merely a certain degree of treatment before such wastes are dumped into the water or to prohibit such dumping altogether and require the installation of onboard holding tanks which are pumped into shoreside facilities. A sizeable number of States, including the State of New York, have taken the latter course.

Section 13 of the Federal Water Pollution Control Act (33 U.S.C. 1163) directs the Secretary of the Interior to promulgate Federal standards of performance for marine sanitation devices. These standards—

> * * * shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States * * *

But they may permit dumping of such wastes into the water so long as there is some treatment.

The initial standards and regulations under the section are to become effective for new vessels two years after promulgation and for existing vessels five years after promulgation; in addition, the Secretary of the department in which the Coast Guard is operating (presently the Department of Transportation) may waive the applicability of the standards and regulations for individual vessels or classes of vessels.

Subsection (f) of section 13 preempts the existing role of the States in this area once the initial standards and regulations take effect, though it does allow them to seek from EPA prohibitions on discharges for specific waters within their borders.

EPA published proposed regulations pursuant to section 13 in the Federal Register on May 12, 1971, but they have not been officially promulgated. The proposal would not prohibit all discharges, but only those—

> * * * containing visible floating or settleable solids; and * * * which * * * without dilution other than that normally used for flushing purposes, [do] not contain:
>
> (1) Total coliform bacteria in excess of 240 per ml.;
>
> (2) Biochemical Oxygen Demand in excess of 100 mg./l; and
>
> (3) Suspended solids in excess of 150 mg./l.

As was mentioned previously, the existing law provides that the initial standards and regulations relating to marine sanitation devices are to take effect two years after promulgation for new vessels and five years after promulgation for existing vessels. Until those effective dates, boats are subject to regulation by the States.

The pending bill, in addition to renumbering section 13 as section 312, would amend subsection (f) to provide that once the initial standards and regulations are promulgated, they will be immediately applicable to any vessel which complies with them. There can be no doubt that this amendment further limits and strangles what little authority the States have in this field.

The preemption feature of section 13 was, in our opinion, a mistake from the beginning. It is most disappointing that a bill which declares it to be—

> * * * the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the States to prevent and abate pollution * * * (sec. 101(b)).

further weakens the power of the States relative to marine sanitation devices instead of strengthening it.

The legislation should amend this section of the law to permit any State to prohibit completely the discharge of sewage from vessels where it determines that the protection and enhancement of the quality of some or all of its waters requires such a prohibition. The Federal standards would then represent the minimum, rather than the maximum degree of purity of marine sanitation discharges, and the "States' rights" policy so eloquently expressed in section 101(b) of the bill would also be effectuated as a matter of substance.

J. The Definition of Pollution Gives the Oil Industry an Unacceptable and Improper Exception From Pollution Control

The definition of a "pollutant" in section 502(6) specifically exempts "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 . . . ." Under this exemption, pollution of ground water by the oil industry will not be deemed pollution, while pollution resulting from poor well-disposal practices by any other industry is pollution.

This exemption has the effect of preventing the EPA from even studying or publishing information on, or making plans to control, pollution of ground water from the oil industry's injection wells.

There is no reason why the oil industry should qualify for a special exemption. Since injection well disposals are not covered by the permit system under section 402, the net effect of eliminating this exemption would be to permit the Administrator to conduct planning for the

safe handling of well disposal and to gather and publish information on the subject.

We should not shut our eyes to possible contamination of our groundwater resources.

K. The Two-Year Extension in Section 301 of the Bill Encourages Delay in Installing the Best Practicable Technology

Section 301(b)(3) of the bill provides that EPA may grant an extension of *up to two years* for polluters who have not installed the best practicable technology (in the case of private sources), or technology providing for secondary treatment (in the case of publicly owned sources) by January 1, 1976.

All that a source need demonstrate to get this two-year free ride is that it "is not possible either physically or legally to complete the necessary construction within the statutory time limit." There is absolutely no requirement that the failure to comply be the fault of a third party, act of God, or like cause.

This provision encourages polluters to delay compliance and in fact places a premium on their doing so. A corporation which can delay for two years the expenditure of capital funds has the use of that money for that length of time and can invest it elsewhere for profit-making purposes.

At the very least, the granting of any extension of time should be contingent upon a strong showing that the applicant made aggressive, good faith efforts to comply and was prevented from doing so through no fault of its own.

L. The Bill Does Not Provide Any Criminal Sanctions Against Polluters Who Willfully or Negligently Violate an EPA Order To Abate Their Pollution

Section 301 of the bill provides that "the discharge of any pollutant" is "unlawful", except in compliance with a permit or certain other sections of the bill.

Section 309 of the bill contains the enforcement sections of the bill. However, it is garbled and defective in several respects.

Section 309 provides three types of enforcement action against a violator:

(1) EPA can issue an administrative order requiring the violator to comply with the law (pars. (a)(1) and (a)(3)). If the violator does not comply, he is subject to a civil penalty up to $10,000 per day (par. (d)).

(2) EPA can bring a civil action for injunction (par. (b)).

(3) Any person who willfully or negligently violates certain sections of the act, or the permit conditions implementing those sections, may be punished criminally by fine ($2500–$25,000 per day) or imprisonment (not more than 1 year) or both (par. (c)).

But these apparently good enforcement tools are impaired by what may be drafting defects:

First, both paragraphs (a)(1) and (a)(3) of section 309 say that the Administrator "shall issue an order *or* shall bring a civil action." Although a violation of an order may lead to the civil penalty of up

to $10,000 per day, it is unclear whether the EPA, having elected to issue an order, may then seek civil injunctive relief under paragraph (b).

Second, although section 309(c) provides criminal penalties for willful or negligent violation of the law or permit conditions, it does not impose criminal penalties for violation of the EPA order, no matter how "willfully or negligently" the violation occurs.

Certainly, in these respects, the House bill is weaker than the Senate-passed bill (S. 2770) which does not have these defects.

An order—administrative or judicial—should not be treated lightly. Failure of compliance should be a grave offense. Even more serious, however, is the case where the offender "willfully or negligently" fails to comply with an order. Certainly, such unlawful actions deserve criminal as well as civil sanctions. The Senate bill provides them and the House bill should also.

M. There Follows the Full Text of the Letter From Eleven of Our Colleagues to the Public Works Committee

House of Representatives,
Washington, D.C. February 24, 1972.

Hon. John A. Blatnik,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

Dear Mr. Chairman: We understand that your committee will soon report out H.R. 11896, with amendments, consistent with the policies and goals that your committee announced last December 15. Several features of the legislation, as we understand it, give us some concern. We take this opportunity to indicate which ones they are and to make some suggestions about them.

1. *The Fish and Wildlife Coordination Act.*—Section 511(b) of H.R. 11896 makes the Coordination Act specifically applicable to the sections of the bill on national standards of performance, the publication of information and guidelines regarding water quality, and the establishment of ocean discharge criteria. We support this broadened application of that Act. But, in broadening the Act, the bill also weakens the Coordination Act by making it inapplicable to the new permit program established under section 402 of the bill.

The Senate bill includes this same limitation.

When President Nixon issued Executive Order 11574 establishing the Refuse Act permit program, the then proposed Corps of Engineers regulations also limited the Coordination Act in regard to its applicability to Refuse Act permit applications. After joint hearings by the House Conservation and Natural Resources Subcommittee and the Senate Subcommittee on the Environment in February 1971, at which many of us spoke out against such a limitation, the Corps agreed it was inappropriate and dropped it in promulgating its final regulations last April.

We urge that section 511(b) of H.R. 11896 be amended so that the Coordination Act is applicable to the new permit program. This will insure that State fish and game agencies, N.O.A.A., and the Fish and Wildlife Service will have the same opportunity to review and comment on these permit applications as they now have in the case of *all* permit applications filed under the River and Harbor Act of 1899.

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We think that such review and comment by these agencies is essential for the protection of the Nation's fish and wildlife resources.

2. *The Refuse Act of 1889.*—Neither H.R. 11896 nor the Senate bill (S. 2770) repealed the Refuse Act of 1899 or amended it so as to make it ineffective as an anti-pollution tool. Your committee's announcement on the bill stated that "no new permits" would be issued "under the Refuse Act." Presumably that did not mean that the law itself would be affected. However, a number of suggestions recently have been made to repeal, in effect, the 1899 law as an anti-pollution tool.

We think such a step would be disastrous and urge that you not do so.

On January 29, 1972, an Assistant United States Attorney in New York told the New York State Bar Association that the 1899 law "has emerged as the primary pollution abatement statute . . . for the simple reason that it, alone, has proven enforcible . . . (and) that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment." In grading the Refuse Act, he said:

"It has and is creating a climate in which industry—the potential defendants—now feels a growing certainty that it can no longer pollue with impunity, and;

"It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.

"Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute."

We concur with his remarks.

The 1899 law has given concerned citizens and citizen groups an opportunity to participate with their Government in halting the pollution of our waters. If Congress effectively repeals the Refuse Act as an anti-pollution tool, the credibility of the Government's anti-pollution effort will be severely strained.

We urge that you retain the 1899 law as a "pollution abatment statute."

3. *The National Environmental Policy Act of 1969.*—Section 511 (d) of H.R. 11896 provides that the "requirements" of NEPA "as to water quality considerations shall be deemed to be satisfied" by a certification issued by a State with respect to Federal licenses or permits involving a discharge into navigable waterways. This would include licenses or permits issued by the Corps, Environmental Protection Agency, Atomic Energy Commission, Federal Power Commission, and other agencies.

We are concerned about the meaning and scope of this provision. First, the word "requirements" includes the directives in section 102(1) of NEPA that all "policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies" of NEPA. Second, it includes the directives in section 102(2) of NEPA that all agencies "utilize a systematic, interdisciplinary approach" in planning and decision making "which may have an impact on man's environment." Third, this word includes the directives in section 102(2)(C) that a detailed environmental impact statement be prepared in the case of actions that "significantly" affect the quality of the environment. Such an amend-

ment would result in a serious weakening of NEPA and be disastrous for our environment.

Since enactment NEPA has caused needed revisions of Federal agency procedures which are enabling the public to have a more substantial input into agency decisions. It has broadened the opportunities of Federal, State and local agencies to express their views on the environmental effects of Government actions. Federal agencies have given greater attention to the environmental effects of their proposed actions.

The requirement that Federal agencies prepare environmental impact statements has given Federal agencies an opportunity to face the problems of pollution early. They look at them while they are still of manageable proportions and while alternative solutions are still available, rather than wait until it may be too late.

We feel certain that your committee does not want to make changes in NEPA that would weaken its effectiveness. At the same time, we recognize your committee's desire to insure that water quality determinations, in the case of discharges, are made only by EPA and not by a multitude of agencies. We could support a provision in the bill that makes that clear, so long as other environmental considerations, not solely in EPA's province or expertise, such as the location of the discharge facility or plant and fish and wildlife considerations, are not circumscribed by such a provision. We think they would be if the current language of H.R. 11896 was adopted.

Some suggestions have recently been made that the environmental impact statements requirement of NEPA be waived in the case of permits issued under section 402 of the bill or the Refuse Act. The fear expressed is that, if such statements are required, the permit program will be bogged down.

The Government, in the *Kalur* case, is contending that such statements are not required for Refuse Act permits. In that case, the Federal district court held that they are required. The Government has appealed. We think that Congress should await the outcome of that decision and not act hastily by amending NEPA. In the meantime, the House Merchant Marine and Fisheries Committee will hold hearings in a few weeks on NEPA, at which time we are sure that better evidence about the seriousness of the problem will develop.

4. *Employee Protection.*—We are deeply concerned about the problem of industrial plant closings, with the resultant loss of jobs and economic disruption to communities. All too often, the reasons ascribed by industry for such closings are governmental requirements established to protect and enhance our environment. We have seen examples of plant closings in one State and the production of that plant shifted to another State. In some cases, governmental antipollution requirements may result in such closings, but more often than not, other factors, such as age and size of the plant, are the root cause.

This is a serious problem; one that could seriously undermine efforts to improve water quality.

We think that H.R. 11896 must provide the means for resolving this problem and protecting the Nation's work force.

We think this problem could be helped if EPA is given an opportunity to review permit applications, and, where appropriate, reject

those not environmentally sound, and if EPA establishes minimum effluent requirements on an industry-wide basis. With these two measures, there would be better assurance that a company would not "shop around" to locate a plant in a State with less strict anti-pollution requirements.

We also urge the following as a solution to this problem:

First, there should be a continuous detailed Federal investigation, including hearings, of industry to determine potential employment loss from enforcement of the Federal Water Pollution Control Act, particularly where the employer alleges the closure is due to such enforcement.

Second, where a closure does occur, prompt economic assistance should be provided to laid-off workers and, if necessary, the community affected.

We note that representatives of labor have furnished your committee with proposals relating to these matters. We urge sympathetic consideration of these.

5. *National Academies Study.*—Section 315 of the bill calls for a study by the National Academy of Science and the National Academy of Engineering "of all aspects of the total social and economic effects of achieving or not achieving" the 1981 requirements and 1985 goals set forth in the bill. We think that such a study will be quite useful. However, we do not think the study should delay implementation of them.

The NAS–NAE study will take two years to complete. Thus, it will be 1974 before Congress could even begin to evaluate the study results and act. We think this is too long a period to wait.

By establishing these requirements and goals now, we will be encouraging long-term planning by industry, and, most importantly, the development of technology to achieve them. On the other hand, by postponing their establishment, we will be increasing the costs of eventually cleaning up. Polluters will install technology to meet the bill's earlier 1976 requirements which may be incompatible with the control methodology needed to meet the later stronger requirements; if industry knew this earlier, it could act responsibly and install the needed technology. Industry deserves to know now what will be expected down the road. Establishment of these requirements and goals will also make industries see that it is to their advantage to join with municipalities in regional treatment systems. If industries see only low control requirements on the horizon, many of them will believe they can do the job more cheaply by themselves, thus forcing our municipalities to go it alone in these systems and sacrificing savings that would come with larger scale operation. The 1981 requirements specifically provide for "taking into account the cost of such controls," direct that the requirements only be implemented when they can be carried out at a "reasonable cost," and, in another section, require a balancing of costs and benefits before imposing high controls.

If the NAS–NAE study shows that the 1981 requirements and 1985 goals are unrealistic, we feel sure that Congress will respond. But we should not, in one part of the bill, tell the public we are establishing goals and then, in another part of the bill, tell the public that the goals are ineffective until Congress passes a new law several years later.

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We urge that these goals be established now.

6. *Citizens' Standing to Sue.*—The bill provides for citizen participation through citizen suits, but adds restrictions and limitations concerning the citizens' standing to sue.

The question of "standing" is peculiarly a judicial principle. It ought to be left to the courts to determine who has "standing" sufficient to complain about a substantive violation of law. But the bill proposes to limit such "standing" by at least two devices:

First, it would allow only those "citizens of the area where the direct interests are affected" to initiate suit. It does not define what "area" is involved, or what is a "direct interest." Presumably, however, a citizen of Texas, no matter how much property he might have around San Francisco Bay, would be ineligible to complain about pollution of the Bay, because he is not "a citizen of the area." Even if he is a citizen of the San Francisco Bay area, the addition of the words "where the direct interests are affected" in conjunction with the matter of the citizen's "standing" seems to imply (or at least may lead to the interpretation) that the interest affected must be that citizen's "direct interest." This, in effect, would allow only owners of property which is "directly affected" to challenge the violation of anti-pollution controls, and would exclude the citizen concerned over degradation of esthetics, scenic view, and water recreational opportunities.

The second device, by which the bill would limit citizen participation, is that only those groups which have participated in the administrative process will have standing to initiate any litigation. All too often the administrative process is either clothed in secrecy, or affords so little time that citizen groups cannot adequately prepare to challenge a permit, or a polluting discharge, in the hurried administrative procedure. Then, having been edged out of the administrative proceeding, they will, under this bill, find themselves foreclosed from "standing" for seeking judicial relief.

We urge that these limitations be stricken from the bill.

We appreciate this opportunity to present our views and comments to you. We stand ready to provide to you appropriate amendments to carry out our recommendations. We have the support of a broad spectrum of labor, environmental, consumer, professional, and other organizations in regard to all of these matters.

With every good wish,

Sincerely yours,

Henry S. Reuss, Thomas M. Pelly, John E. Moss, Gilbert Gude, John H. Dent, Silvio O. Conte, John D. Dingell, John P. Saylor, Lucien N. Nedzi, Dante Fascell, Floyd V. Hicks.

N. There Follows EPA's Summary of November 1, 1971, of the "Positive Aspects" of the Refuse Act Permit Program

POSITIVE ASPECTS, OFFICE OF REFUSE ACT PROGRAMS, ENVIRONMENTAL PROTECTION AGENCY

In recent months we have seen positive action, on the part of industry as a result of the Permit Program. The following are a few positive aspects; more are available on request.

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1. The Fairfax Drainage District near Kansas City had a storm sewer that received industrial discharges from 65 companies and dumped them into the Missouri River. The Kansas City Sewage District had agreed to accept this discharge of industrial waste and to treat it, but a connecting valve had not been installed, even though the transmission lines were complete. Because of the Refuse Act Permit Program, and a 180-day notice, the valve has been installed and the waste is being treated.

2. It was agreed upon at the Beet-Sugar Conference held in Denver that the industry should completely recycle process water within two years which will reduce the amount of pollutants entering streams from this industry.

3. CPC, International Corporation, in Kansas City, Missouri became aware of fecal coliform and fecal strep in its discharge as a result of the Refuse Act Permit Program application. The company has agreed to find the source of this discharge.

4. Bancroft Dairy of Marquette, Mich., installed a lagoon in October to completely halt any discharges from its dairy operations.

5. Benton Harbor Malleable Ind., Benton Harbor, Mich., discharged its wastes via a sunken outfall to waters which flowed directly into Lake Michigan. The Company has now connected to a municipal treatment system for treatment of its wastes.

6. Sunstrand, Corp. contacted the EPA Permit Branch in Denver requesting information on effluent guidelines, chromium treatment and new legislation. They indicated that pre-treatment, recycle and chromium recovery will be included in their next capital budget.

7. Crown Prince Pet Foods of North Platte, Nebraska applied for a permit to discharge from holding ponds. A permit review found a discharge to a combined sewer, hence to the North Platte River. The access to the combined sewer had been ineffectively plugged with sandbags. Nebraska directed the city of North Platte to plug the access with concrete, which they did.

8. Midwest Rendering of Belleville, Kansas has been discharging into the Salt Creek, a tributary of the Republic River, without treatment for 15 years. They have now agreed to construct temporary facilities by January 1, 1972 and permanent facilities by January 1, 1973.

9. Instrument companies, such as the Beckman Company, which manufactures laboratory testing equipment, have reported that their sales have increased considerably due to the Refuse Act Permit Program.

10. A new England Power Company applied for a State permit, but the State refused to issue one on the basis that the Company's discharge had high heat content. The company started negotiations with the State and with EPA in order to reach an agreement on the discharge. The Company has now begun to cooperate by gathering data on its waste and, working in its labs, to develop a new means of discharging in order to diminish the heat and its effects.

11. States set overall implementation dates for discharges, whereas EPA may set a schedule for each parameter. For instance, EPA met with GAF, a New Jersey Chemical Company, to discuss specific parameters and implementation schedules for mercury and other constituents.

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12. GAF also claims that it has benefited from meetings with the Permit staff because, by studying one installation, it has been able to review plans for future facilities and discharges.

13. Many companies have expressed the problem of contending with the variety of State water quality standards, hence giving some companies an advantage over others, depending on the State in which they are located. The Refuse Act Permit Program can help in creating national water quality standards.

14. The Program has identified and is limiting toxic constituents in process water which were previously uncontrolled by the industry.

O. Conclusion

We strongly urge other Members to join with our eleven colleagues in support of strengthening amendments to this very important water pollution bill.

Charles B. Rangel.
Bella S. Abzug.

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SUPPLEMENTAL VIEWS ON H.R. 11896

THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

We support the objective of H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. The pollution of our Nation's waterways, streams, lakes and coastline must be arrested, and we must reverse the degradation of our once pure and pristine waters. While supporting this comprehensive and encompassing piece of legislation, we view with apprehension the long-range economic impact the bill may bring to the Nation.

H.R. 11896 sets very high target levels for reduction or elimination of discharge into water bodies. While high target levels are desirable, the incremental cost of achieving the successively higher levels of discharge removal accelerate rapidly. During the limited hearings held in connection with H.R. 11896, Governor Rockefeller of New York testified that to implement the zero discharge approach the bill contained in New York State alone would cost a whopping $239 billion for capital investment, operation and maintenance for municipal and industrial pollution control over the next 25 years. Extrapolating on this figure by a factor of ten, we can reasonably estimate the cost for the Nation as a whole to be a staggering $2.34 trillion. Equally significant is the lesser increase in benefits associated with this high level of pollution control. As studies have shown, the index of costs can rise five times while approaching a high level of discharge removal while the index of benefits rises only .28 times for the same increase.

Clearly, these figures indicate the caution Congress must exercise in setting a goal as rigorous as zero discharge These programs are decisions to use a part of the economy's productive capacity in a certain way. They cannot but affect our ability to produce.

Embodied in the cost estimates is the cost to industry. If industry were to undertake massive construction of waste treatment plants, productivity will diminish and the prices consumers pay will rise. While no reliable estimates exist for these price rises, they nevertheless will certainly occur. Our international competitive position, our domestic national income and our employment levels will suffer. Estimates do exist for price increases resulting from total compliance with the Clean Air Act of 1967. They range from .1 percent to 16.8 percent for the thirty industries studied, and, while many increases are under 1 percent, international trade responds promptly to price differentials of a small size. Congress simply cannot ask labor and industry, the backbone of our economy, to accept these inevitable consequences for inordinately high levels of discharge removal.

Municipal costs will be borne by the taxpayer. While H.R. 11896 authorizes $18 billion over the next three years for Federal participation in construction of waste treatment plants, localities will have to

maintain and operate these plants. High levels of removal require skilled operators with highly technical backgrounds. The sheer numbers of employees needed to successfully operate these plants will cost money, and local taxes are the only means by which localities can pay. In addition, we question what burden this enormous program will impose on the present employees of the Environmental Protection Agency. We fear a vast expansion of Federal employment to process the huge amount of permits, applications, and other necessary paperwork. To meet the projected costs for high levels of discharge removal clearly goes beyond the means of the treasuries of local, State and Federal governments. Only if the citizens of our Nation are willing to tax themselves much more than they presently do will governments be able to finance the demand for discharge removal costs.

Last year, the projected Federal budget margin, or expected revenues not yet specifically committed, for fiscal year 1975 was $22 billion. The projected margin for fiscal year 1975 now stands at $12 billion, or a little more than half of what it was a year ago. Present programs are eating away at projected available funds. Either higher taxes or reduced program activities is the only way to provide the vast commitment of funds necessary for the pollution control program envisioned.

Our Nation is facing serious electrical energy shortages. Yet, in this legislation we would impose additional electrical energy demands. Both municipal and industrial waste treatment facilities for high levels of discharge removal would require a great deal of energy. The additional numbers of treatment plants will also act as a drain on our critical electrical supplies. We question whether these demands can be met. We also question whether or not this energy requirement would be self-defeating for the more electrical energy one generates, the more pollution one produces.

Although some information exists concerning the economic impact of H.R. 11896, we are still not satisfied that information is complete. The four days of hearings held in December dealt with all major issues of this comprehensive piece of legislation. Economic impact was but one issue among many covered. We need more detailed information on potential price increases, employment impacts, balance of trade effects and budget commitments which will result from passage of this legislation so that sound decisions can be made on the course we wish to follow. If these decisions are made with a clear awareness of the magnitude of future claims on our economic resources, they can contribute to orderly fiscal and economic planning. If new programs are taken on without seeing clearly the magnitude and character of future commitments, they may adversely affect our capability in the future to produce efficiently, thereby imposing severe strains and distortions on the economy. We have a duty of candor to the American people. We have a responsibility to legislate a realistic program rather than legislate one which offers more promise than performance.

ROGER H. ZION.
JOHN H. TERRY.

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ADDITIONAL SUPPLEMENTAL VIEWS BY JOHN H. TERRY

I have joined my colleague, Mr. Zion, in the preceding views. In addition, I am vitally concerned that the role of the States has, under the provisions of this bill, been eroded relative to their initiative in the area of water pollution abatement.

While the legislation makes it the policy of the Congress to recognize, preserve and protect the primary responsibilities and rights of the State to prevent and abate pollution, I firmly believe that these responsibilities and rights have been usurped by the extraordinarily detailed and tremendously broad areas of responsibility that have been given to the Administrator of the Environmental Protection Agency. To paraphrase one of our esteemed colleagues, the Honorable Jamie L. Whitten of Mississippi, concerning the Senate version of this legislation, it would give a good administrator more power than he would want and a bad administrator more power than he should have. I am well acquainted with the administrative prowess of William Ruckelshaus.

Our bill also conveys considerable power into the hands of the Administrator, including responsibility over the most minute details of the programs of the States. To quote from the views expressed by the esteemed junior Senator from New York, James Buckley, ". . . the Administrator must stipulate the elements which a state program must include, he is required to judge the acceptability of the system of charges which each and every applicant will impose upon all users of waste treatment services as a condition of receiving a grant; he must determine the capability of 50 states to qualify for delegation of authority for a waste discharge permit system; he must approve waste treatment management plans for each State and each regional agency created within each State; and he must, once he has disposed of all these duties, continue to be responsible, as the ultimate enforcer. for the maintenance of every last provision imposed upon him and upon the States by this Act, whether or not these minutiae actually affect the achievement of water quality standards."

I submit that this awesome task we have set forth to accomplish in this bill cannot be quickly or efficiently carried out in the time frame provided for in the legislation. There is simply too much to be done and not enough people to do it.

In response to my question at the House hearings in December, the EPA Administrator testified that six months was the earliest that he would expect to approve any State permit program; and during that period he would expect to have 90% of the Nation's waste discharges (represented by 10% of the sources) under permit. In many States this would be an extremely confusing (to the dischargers) duplication of State permit issuance. Not only would it be wasteful of manpower,

but it would place dischargers under possible double jeopardy, and undoubtedly delay abatement due to a great increase in appeals for judicial review and a clogging of the courts. Some administrative review procedure for proposed EPA guidelines and EPA actions, with regard to approval of State permit programs seems essential to avoid such consequences as well as assure a meaningful State role and rational guidelines.

In addition to this, the States are essentially without any review procedure other than by the U.S. District Courts. Section 509, which deals with administrative review procedures, requires an application to U.S. District Court within 30 days of EPA determinations subject to review. Here administrative reviews is possible, but the time allowed is much too short. It is my feeling that the time allowed should be doubled. Many other significant areas in the legislation where the administrator has a great deal of discretionary action are, however, without such review. These include Section 204, the construction grant limitations and conditions, Section 303, the water quality standards and implementation plans, Section 304, the Federal guidelines, and Section 402, the permit program.

Since the permit program is fundamental to implementation of the Act, and guidelines promulgated by EPA under Section 304 are key to the pollution control conditions for discharge under the permits, whether issued by EPA or by a state after EPA approval of a State program, an administrative review procedure of Section 304 guidelines, prior to their promulgation, and EPA approval or disapproval of State permit programs is essential. Otherwise, the so-called primary State role is not meaningful.

Finally, a few comments on the reimbursement and advance construction provisions of the House bill.

Post 1966 projects eligible for only a 30% Federal share would not be eligible for 50% (i.e., retroactive grants to provide an additional 20% in Federal funds), as in the Senate bill, unless 25% State grants have previously been made or are made retroactively. New York would gain only 4.1 million from this provision.

I think the House requirement of a 25% retroactive State grant, to be made by many States, would be patently unfair, particularly due to the provision for a greater Federal share and lesser State share for *future* projects.

The $2 billion authorization in Section 206 needs to be increased to $3 billion if reimbursements include retroactive grants to increase the Federal share from 30% to 50% for all States. Otherwise, no State will receive more than two-thirds of the funds for which they are or would be eligible.

In conclusion, I would again like to stress that I support the objective of this legislation. We must stop the pollution of this nation's waterways, streams, lakes and coastlines and arrest their future degradation. This bill will do much in this fight to clean up our country's navigable waterways.

JOHN H. TERRY.

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