THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

JANUARY 1973

WILLIAM D. RUCKELSHAUS
Administrator

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 • Price $27.25 per 7-part set. Sold in sets only.
Stock Number 5500–0068

ENVIRONMENTAL PROTECTION AGENCY

FOREWORD

It has been said that America is like a gigantic boiler in that once the fire is lighted, there are no limits to the power it can generate. Environmentally, the fire has been lit.

With a mandate from the President and an aroused public concerning the environment, we are experiencing a new American Revolution, a revolution in our way of life. The era which began with the industrial revolution is over and things will never be quite the same again. We are moving slowly, perhaps even grudgingly at times, but inexorably into an age when social, spiritual and aesthetic values will be prized more than production and consumption. We have reached a point where we must balance civilization and nature through our technology.

The U.S. Environmental Protection Agency, formed by Reorganization Plan No. 3 of 1970, was a major commitment to this new ethic. It exists and acts in the public's name to ensure that due regard is given to the environmental consequences of actions by public and private institutions.

In a large measure, this is a regulatory role, one that encompasses basic, applied, and effects research; setting and enforcing standards; monitoring; and making delicate risks—benefit decisions aimed at creating the kind of world the public desires.

The Agency was not created to harass industry or to act as a shield behind which man could wreak havoc on nature. The greatest disservice the Environmental Protection Agency could do to American industry is to be a poor regulator. The environment would suffer, public trust would diminish and instead of free enterprise, environmental anarchy would result.

It was once sufficient that the regulatory process produce wise and well-founded courses of action. The public, largely indifferent to regulatory activities, accepted agency actions as being for the "public convenience and necessity." Credibility gaps and cynicism make it essential not only that today's decisions be wise and well-founded but that the public know this to be true. Certitude, not faith, is de rigueur.

In order to participate intelligently in regulatory proceedings, the citizen should have access to the information available to the agency. EPA's policy is to make the fullest possible disclosure of information,

without unjustifiable expense or delay, to any interested party. With this in mind, the EPA Compilation of Legal Authority was produced not only for internal operations of EPA, but as a service to the public, as we strive together to lead the way, through the law, to preserving the earth as a place both habitable by and hospitable to man.

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.

A permanent office in the Office of Legislation has been established to keep the publication updated by supplements.

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

LANE WARD, J.D.,
Assistant Director for Field Operations
Office of Legislation
U.S. Environmental Protection Agency.

ACKNOWLEDGMENT

The idea of producing a compilation of the legal authority of EPA was conceived and commissioned by William D. Ruckelshaus, Administrator of EPA. The production of this compilation involved the cooperation and effort of numerous sources, both within and outside the Agency. The departmental libraries at Justice and Interior were used extensively; therefore we express our appreciation to Marvin P. Hogan, Librarian, Department of Justice; Arley E. Long, Land & Natural Resources Division Librarian, Department of Justice; Frederic E. Murray, Assistant Director, Library Services, Department of the Interior.

For exceptional assistance and cooperation, my gratitude to: Gary Baise, formerly Assistant to the Administrator, currently, Director, Office of Legislation, who first began with me on this project; A. James Barnes, Assistant to the Administrator; K. Kirke Harper, Jr., Special Assistant for Executive Communications; John Dezzutti, Administrative Assistant, Office of Executive Communications; Roland O. Sorensen, Chief, Printing Management Branch, and Jacqueline Gouge and Thomas Green, Printing Management Staff; Ruth Simpkins, Janis Collier, Wm. Lee Rawls, James G. Chandler, Jeffrey D. Light, Randy Mott, Thomas H. Rawls, and John D. Whittaker, Peter J. McKenna, Linda L. Payne, John M. Himmelberg, and Dana W. Smith, a beautiful staff who gave unlimited effort; and to many others, behind the scenes who rendered varied assistance.

LANE WARD, J.D.,
Assistant Director for Field Operations
Office of Legislation
U.S. Environmental Protection Agency.

INSTRUCTIONS

The goal of this text is to create a useful compilation of the legal authority under which the U.S. Environmental Protection Agency operates. These documents are for the general use of personnel of the EPA in assisting them in attaining the purposes set out by the President in creating the Agency. This work is not intended and should not be used for legal citations or any use other than as reference of a general nature. The author disclaims all responsibility for liabilities growing out of the use of these materials contrary to their intended purpose. Moreover, it should be noted that portions of the Congressional Record from the 92nd Congress were extracted from the "unofficial" daily version and are subject to subsequent modification.

EPA Legal Compilation consists of the Statutes with their legislative history, Executive Orders, Regulations, Guidelines and Reports. To facilitate the usefulness of this composite, the Legal Compilation is divided into the eight following chapters:

A. General
B. Air
C. Water
D. Solid Waste
E. Pesticides
F. Radiation
G. Noise
H. International

WATER

The chapter labeled "Water" and color coded blue contains the legal authority of the Agency as it applies to water pollution abatement. It is well to note that any law which is applicable to more than one chapter of the compilation will appear in each of the chapters; however, its legislative history will be cross referenced into the "General" chapter where it is printed in full.

SUBCHAPTERS:

Statutes and Legislative History

For convenience, the Statutes are listed throughout the Compilation by a one-point system, i.e., 1.1, 1.2, 1.3, etc., and Legislative History begins wherever a letter follows the one-point system.

Thusly, any 1.1a, 1.1b, 1.2a, etc., denotes the public laws comprising the 1.1, 1.2 statute. Each public law is followed by its legislative history. The legislative history in each case consists of the House Report, Senate Report, Conference Report (where applicable), the Congressional Record beginning with the time the bill was reported from committee.

Example: 1.4 Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169 (1969).

1.4a Amortization of Pollution Control Facilities, December 30, 1969, P.L. 91-172, §704, 83 Stat. 667.

(1) House Committee on Ways and Means, H.R. REP. No. 91-413 (Part I), 91st Cong., 1st Sess. (1969).

(2) House Committee on Ways and Means, H.R. REP. No. 91-413 (Part II), 91st Cong., 1st Sess. (1969).

(3) Senate Committee on Finance, S. REP. No. 91-552, 91st Cong., 1st Sess. (1969).

(4) Committee of Conference, H.R. REP. No. 91-782, 91st Cong., 1st Sess. (1969).

(5) Congressional Record, Vol. 115 (1969):

(a) Aug. 7: Debated and passed House, pp. 22746, 22774-22775;

(b) Nov. 24, Dec. 5, 8, 9: Debated and passed Senate, pp. 35486, 37321-37322, 37631-37633, 37884-37888;

(c) Dec. 22: Senate agrees to conference report, p. 40718;*

(d) Dec. 22: House debates and agrees to conference report, pp. 40820, 40900.

This example not only demonstrates the pattern followed for legislative history, but indicates the procedure where only one section of a public law appears. You will note that the Congressional Record cited pages are only those pages dealing with the discussion and/or action taken pertinent to the section of law applicable to EPA. In the event there is no discussion of the pertinent section, only action or passage, then the asterisk (*) is used to so indicate, and no text is reprinted in the Compilation. In regard to the situation where only one section of a public law is applicable, then only the parts of the report dealing with same are printed in the Compilation.

Secondary Statutes

Many statutes make reference to other laws and rather than have this manual serve only for major statutes, these secondary statutes have been included where practical. These secondary statutes are indicated in the table of contents to each chapter by a bracketed cite to the particular section of the major act which made the reference.

Citations

The United States Code, being the official citation, is used throughout the Statute section of the compilation. In four Statutes, a parallel table to the Statutes at Large is provided for your convenience.

TABLE OF STATUTORY SOURCE

	STATUTES	SOURCE
1.1	River and Harbor Act of 1899, 33 U.S.C. §§403, 407, 411 (1899).	E.O. 11574 sets out EPA's function under this Act.
1.2	Federal Water Pollution Control Act, as amended, 33 U.S.C. §1151 *et seq.* (1970).	Transferred to EPA in Reorg. Plan No. 3 of 1970.
1.3	Pollution of the Sea by Oil, as amended, 33 U.S.C. §1001 *et seq.* (1966).	Implements the Convention of
1.4	Advances of Public Moneys, Prohibition Against, as revised, 31 U.S.C. §529 (1946).	Referred to in the Federal Water Pollution Control Act at §1155(g) (3) (A).
1.5	Public Contracts, Advertisements for Proposals for Purchases and Contracts for Supplies or Services for Government Departments; App Application to Government Sales and Contracts to Sell and to Government Corporations, as amended, 41 U.S.C. §5 (1958).	Referred to in Federal Water Pollution Control Act in §1155(g) (3) (A).
1.6	Courts of Appeals, Certiorari; Appeal; Certified Questions, as amended, 28 U.S.C. §1254 (1948).	Referred to in the Federal Water Pollution Control Act at §1157(g) (2).
1.7	Davis-Bacon Act, as amended, 40 U.S.C. §276a-275a-5 (1964).	Referred to in the Federal Water Pollution Control Act at §1158(g).
1.8	Per Diem, Travel and Transportation Expenses; Experts and Consultants; Individuals Serving Without Pay, as amended, 5 U.S.C. §5703 (1966).	Referred to in the Federal Water Pollution Control Act at §1159(a) (2) (B), 1160(c) (4), (i).
1.9	1909 Boundry Waters Treaty Between Canada and the United States, and the Water Utilization Treaty of 1944 Between Mexico and the United States, 36 Stat. 2448 (1909), 59 Stat. 1219 (1944).	Referred to in the Federal Water Pollution Control Act at §1160(d) (2).

	STATUTES	SOURCE
1.10	Disclosure of Confidential Information Generally, as amended, 18 U.S.C. §1905 (1948).	Referred to in the Federal Water Pollution Control Act at §§1160(f)(2), (k), (l), 1163(g)(3).
1.11	Convention on the Territorial Sea and the Contiguous Zone, Article XXIV, 5 U.S.T. 1612, 1613 (1958).	Referred to in the Federal Water Pollution Control Act at §1161(a)(9).
1.12	International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Article IV, as amended, 17 U.S.T. 1528 (1954).	Referred to in the Federal Water Pollution Control Act at §1161(b)(2)(A).
1.13	Granting Clearances, as amended, 46 U.S.C. §91 (1951).	Referred to in the Federal Water Pollution Control Act at §1161(b)(5).
1.14	Outer Continental Shelf Lands Act, as amended, 43 U.S.C. §1331 *et seq.* (1953).	Referred to in the Federal Water Pollution Control Act at §1161(i)(2).
1.15	Administrative Procedure Act, as amended, 5 U.S.C. §§551–559, 701–705 (1968).	Referred to in the Federal Water Pollution Control Act at §§1162(b), 1163(e).
1.16	Higher Education General Provision, Definitions, as amended, 20 U.S.C. §1141 (1970).	Referred to in the Federal Water Pollution Control Act at §1169(1)(B).
1.17	National Environmental Policy Act of 1969, 42 U.S.C. §4321 *et seq.* (1970).	Direct reference in the Reorg. Plan No. 3 of 1970.
1.18	Public Health Service Act, as amended, 42 U.S.C. §§241, 243, 246 (1970).	Directly cited in Reorg. Plan No. 3 of 1970.
1.19	The Water Resource Planning Act, as amended, 42 U.S.C. §1962 *et seq.* (1970).	E.O. 11613.
1.20	Appalachian Regional Development Act of 1965, as amended, 40 App. U.S.C. §§212, 214 (1971).	All functions of the Secretary of the Interior and the Department of the Interior administrative to the Federal Water Quality Administration, all functions which were transferred to the Secretary of the Interior by Reorg. Plan No. 2 of 1966, and all functions vested in the Secretary of the Interior of the Department of the Interior by the Federal Water Pollution Control Act were transferred to the Administrator of the Environmental Protection Agency by Reorg. Plan No. 3 of 1970.
1.21	The Disaster Relief Act, 42 U.S.C. §4401 *et seq.* (1970).	Direct reference made to the Water Quality Administration at the Department of the Interior by E.O. 11490, §§703(3), 1102(1), 1103(2), etc., this administration being transferred to EPA through Reorg. Plan No. 3 of 1970.
1.22	Department of Transportation Act, 49 U.S.C. §1653(f) (1968).	The Federal Water Pollution Control Act in section 1153 regarding the preservation of fish and wildlife.

	STATUTES	SOURCE
1.23	Federal Aid Highway Act, as amended, 23 U.S.C. §109(h) (1970).	The Act at §109(h) requires the Secretary of Transportation to consult with the appropriate agency dealing with water pollution, in this case, the Administrator of EPA, before promulgating guidelines for any proposed project on any federal aid system.
1.24	Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169(d)(1)(B), (3) (1969).	The section cited in the Act refers directly to the Federal Water Pollution Control Act and the Federal certifying authority requirement filing to the Secretary of the Interior in the case of water pollution, both functions being transferred through Reorg. Plan
1.25	Airport and Airway Development Act, 49 U.S.C. §§1712(f), 1716(c)(4), (e) (1970).	Direct reference made to water pollution and the appropriate agency to deal with same in the Act.
1.26	Interest on Certain Government Obligations, as amended, 26 U.S.C. §103 (1969).	The sections of the Act provide a tax relief on industrial development bonds for sewage or solid waste disposal facility and water pollution control facilities, at the section cited.
1.27	Fish and Wildlife Coordination Act, as amended, 16 U.S.C. §§661–666c (1965).	E.O. 11574, Administration of Refuse Act Permit Program.

Executive Orders

The Executive Orders are listed by a two-point system (2.1, 2.2, etc.). Executive Orders found in General are ones applying to more than one area of the pollution chapters.

Regulations

The Regulations are noted by a three-point system (3.1, 3.2, etc.). Included in the Regulations are those not only promulgated by the Environmental Protection Agency, but those under which the Agency has direct contact.

Guidelines and Reports

This subchapter is noted by a four-point system (4.1, 4.2, etc.). In this subchapter is found the statutorily required reports of EPA, published guidelines of EPA, selected reports other than EPA's and inter-departmental agreements of note.

UPDATING:

Periodically, a supplement will be sent to the interagency distribution and made available through the U.S. Government Printing Office in order to provide an accurate working set of EPA Legal Compilation.

CONTENTS

C. WATER

VOLUME I

1. STATUTES AND LEGISLATIVE HISTORY

Page

1.1 River and Harbor Act of 1899, U.S.C. §§403, 407, 411 (1899). 3

1.1a River and Harbor Act of 1886, August 5, 1886, P.L. 49–929, §§2, 3, 24 Stat. 329. 6

(1) House Committee on Rivers and Harbors, H.R. REP. No. 1448, 49th Cong., 1st Sess. (1886). 7

(2) House Committee on Rivers and Harbors, H.R. REP. No. 1565, 49th Cong., 1st Sess. (1886). 8

(3) Senate Committee on Commerce, S. REP. No. 1391, 49th Cong., 1st Sess. (1886). 9

(4) Congressional Record, Vol. 17 (1886):

(a) May 6: Amended and passed House, pp. 4243–4247; 9

(b) July 16: Amended and passed Senate, pp. 7035, 7037; 14

(c) Aug. 3: Conference report agreed to by Senate, p. 7906; 15

(d) Aug. 3: Conference report agreed to by House, p. 7934. 15

1.1b New York Harbor Act of 1888, June 29, 1888, P.L. 50–469, §1, 25 Stat. 209. 15

(1) Senate Committee on Commerce, S. REP. No. 224, 50th Cong., 1st Sess. (1888). 16

(2) House Committee on Commerce, H.R. REP. No. 1963, 50th Cong., 1st Sess. (1888). 16

(3) Congressional Record, Vol. 19 (1888):

(a) March 21: Debated, amended and passed Senate, p. 2300; 16

(b) June 4: Debated, amended and passed House, pp. 4889–4890; 17

(c) June 14: Senate concurs in House amendments, p. 5239. 19

1.1c River and Harbor Act of 1890, September 19, 1890, P.L. 51–907, §6 26, Stat. 453. 19

(1) House Committee on Rivers and Harbors, H.R. REP. No. 1488, 51st Cong., 1st Sess. (1890). 20

(2) Senate Committee on Commerce, S. REP. No. 1378, 51st Cong., 1st Sess. (1890). 21

(3) Committee of Conference, 51st Cong., 1st Sess., Congressional Record, Vol. 21 (1890), p. 9558. 21

		Page
	(4) Congressional Record, Vol. 21 (1890):	
	(a) May 28: Passed House, p. 5412;	23
	(b) Aug. 15, 16: Amended and passed Senate, pp. 8607, 8684–8685;	23
	(c) Sept. 6: House agrees to conference report, p. 9822;	29
	(d) Sept. 8: Senate agrees to conference report, p. 9830.	29
1.1d	River and Harbor Act of 1894, August 18, 1894, P.L. 53–299, §§6, 7, 8, 9, 28 Stat. 363.	29
	(1) Damage to Harbor Improvements, Letter from the Acting Secretary of War, House Committee on Rivers and Harbors, H.R. EX. DOC. No. 123, 53rd Cong., 2d Sess. (1894).	31
	(2) House Committee on Rivers and Harbors, H.R. REP. No. 639, 53rd Cong., 2d Sess. (1894).	34
	(3) Senate Committee on Commerce, S. REP. No. 519, 53rd Cong., 2d Sess. (1894).	35
	(4) Committee of Conference, 53rd Cong., 2d Sess., Congressional Record, Vol. 26, (1894), pp. 8173–8175.	35
	(5) Congressional Record, Vol. 26 (1894):	
	(a) May 4: Amended and passed House, p. 4430;	35
	(b) July 13: Amended and passed Senate, p. 7414;	35
	(c) Aug. 6: Senate agrees to conference report, p. 8230;	35
	(d) Aug. 6: House agrees to conference report, p. 8251.	35
1.1e	River and Harbor Act of 1899, March 3, 1899, P.L. 55–425, §§10, 13, 16, 30 Stat. 1151.	36
	(1) House Committee on Rivers and Harbors, H.R. REP. No. 1826, 55th Cong., 3rd Sess. (1899).	38
	(2) Senate Committee on Commerce, S. REP. No. 1686, 55th Cong., 3rd Sess. (1899).	38
	(3) Committee of Conference, H.R. REP. No. 2815–16, 55th Cong., 3rd Sess. (1899).	39
	(4) Congressional Record, Vol. 32 (1899):	
	(a) Feb. 1, 2: Debated, amended and passed House, pp. 1350; 1354; 1356–1357; 1410;	39
	(b) Feb. 23, 24: Debated, amended and passed Senate, p. 2297;	41
	(c) March 3: Senate agrees to conference report, pp. 2815–2816; 2843;	44
	(d) March 3: House agrees to conference report, p. 2923.	44
1.1f	Supplemental Appropriations Act of 1971, January 8, 1971, P.L. 91–665, 84 Stat. 1981.	45
	(1) House Committee on Appropriations, H.R. REP. No. 91–1668, 91st Cong., 2d Sess. (1970).	46
	(2) Senate Committee on Appropriations, S. REP. No. 91–1430, 91st Cong., 2d Sess. (1970).	47

Page

(3) Committee of Conference, H.R. REP. No. 91–1794; 91st Cong., 2d Sess. (1970). 49
(4) Congressional Record, Vol. 116 (1970):
(a) Dec. 10: Passed House, p. 40926; 50
(b) Dec. 14: Amended and passed Senate, pp. 41317, 41322–41323, 41330; 50
(c) Dec. 22: House agrees to conference report, p. 43391; 52
(d) Dec. 28: Senate agrees to conference report, pp. 43706, 43709. 53

1.2 The Federal Water Pollution Control Act, as amended, 33 U.S.C. §1151 *et seq.* (1970). 55
1.2a The Water Pollution Control Act, June 30, 1948, P.L. 80–845, 62 Stat. 1155. 132
(1) Senate Committee on Public Works, S. REP. No. 462, 80th Cong., 1st Sess. (1947). 141
(2) House Committee on Public Works, H.R. REP. No. 1829, 80th Cong., 2d Sess. (1948). 151
(3) Committee of Conference, H.R. REP. No. 2399, 80th Cong., 2d Sess. (1948). 172
(4) Congressional Record:
(a) Vol. 93 (1947), July 16: Amended and passed Senate, pp. 9032; 9034–9035; 175
(b) Vol. 94 (1948), June 14: Amended and passed House, pp. 8192; 8195–8203; 176
(c) Vol. 94 (1948), June 15: Senate disagrees to House amendments and demands conference, pp. 8295–8296; 196
(d) Vol. 94 (1948), June 16: House agrees to conference, p. 8458; 196
(e) Vol. 94 (1948), June 18: House agrees to conference report, p. 8864; 196
(f) Vol. 94 (1948), June 18: Conference report submitted in Senate, p. 8772; 198
(g) Vol. 94 (1948), June 19: Senate agrees to conference report, pp. 9002–9003. 199
1.2b Reorganization Plan No. 14 of 1950, May 24, 1950, 15 Fed. Reg. 3176, 64 Stat. 1267. 200
1.2c Water Pollution Control Act Extension, July 17, 1952, P.L. 82–579, 66 Stat. 755. 200
(1) House Committee on Public Works, H.R. REP. No. 1990, 82nd Cong., 2d Sess. (1952). 201
(2) Senate Committee on Public Works, S. REP. No. 2092, 82nd Cong., 2d Sess. (1952). 205
(3) Congressional Record, Vol. 98 (1952):
(a) June 12: Passed House, pp. 6364–6365; 211
(b) July 4: Passed Senate, p. 9317. 213
1.2d Water Pollution Control Act of 1956, July 9, 1956, P.L. 84–660, 70 Stat. 498. 213
(1) Senate Committee on Public Works, S. REP. No. 543, 84th Cong., 1st Sess. (1955). 227

		Page
	(2) House Committee on Public Works, H.R. REP. No. 1446, 84th Cong., 1st Sess. (1955).	250
	(3) Committee of Conference, H.R. REP. No. 2479, 84th Cong., 2d Sess. (1956).	272
	(4) Congressional Record:	
	(a) Vol. 101 (1955), June 17: Amended and passed Senate, pp. 8623, 8627;	292
	(b) Vol. 102 (1956), June 13: Amended and passed House; House insists on its amendments and asks for conference, pp. 10278, 10281;	293
	(c) Vol. 102 (1956), June 14: Senate disagrees to House amendments and agrees to conference, pp. 10323, 10327;	293
	(d) Vol. 102 (1956), June 27: Conference report submitted in House and agreed to, pp. 11149, 11154;	295
	(e) Vol. 102 (1956), June 27: Conference report submitted in Senate, and agreed to, pp. 11075–11076.	296
1.2e	Alaska's Water Pollution Control Act Amendments, June 25, 1959, P.L. 86–70, §28(a), (b), 73 Stat. 148.	297
	(1) House Committee on Interior and Insular Affairs, H.R. REP. No. 369, 86th Cong., 1st Sess. (1959).	297
	(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 331, 86th Cong., 1st Sess. (1959).	300
	(3) Congressional Record, Vol. 105 (1959):	
	(a) June 1: Debated, amended and passed House, p. 9478;	302
	(b) June 3: Amended and passed Senate, pp. 9676;	302
	(c) June 11: House concurs in Senate amendments, with amendment, p. 10570;	302
	(d) June 12: Senate concurs in House amendments, p. 10594.	302
1.2f	Hawaii's Water Pollution Control Act Amendments, June 12, 1960, P.L. 86–624, §23(a), 74 Stat. 417.	302
	(1) House Committee on Interior and Insular Affairs, H.R. REP No. 1564, 86th Cong., 2d Sess. (1960).	303
	(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 1681, 86th Cong., 2d Sess. (1960).	305
	(3) Congressional Record, Vol. 106 (1960):	
	(a) May 16: Passed House, p. 10355;	307
	(b) June 28: Amended and passed Senate, p. 14684;	307
	(c) June 29: House concurs in Senate amendments, p. 15009.	307
1.2g	The Federal Water Pollution Control Act of 1961, July 20, 1961, P.L. 87–88, 75 Stat. 204.	307
	(1) House Committee on Public Works, H.R. REP. No. 306, 87th Cong., 1st Sess. (1961).	316
	(2) Senate Committee on Public Works, S. REP. No. 353, 87th Cong., 1st Sess. (1961).	368
	(3) Committee of Conference, H.R. REP. No. 675, 87th Cong., 1st Sess. (1961).	398

Page

(4) Congressional Record, Vol. 107 (1961):
(a) May 3, Debated in House, pp. 7140–7162; 7165–7172; 415
(b) May 3: Amended and passed House, pp. 7195–7196; 483
(c) June 22: Amended and passed Senate; Senate insisted on its amendments and asks for conference, p. 11074; 484
(d) July 13: Conference report submitted to House and agreed to, pp. 12471; 12475–12496; 485
(e) July 13: Conference report submitted to Senate and agreed to, pp. 12565–12567. 528

1.2h The Water Quality Act of 1965, October 2, 1965, P.L. 89–234, 79 Stat. 903. 533
(1) House Committee on Public Works, H.R. REP. No. 215, 89th Cong., 1st Sess. (1965). 544

VOLUME II

(2) Senate Committee on Public Works, S. REP. No. 10, 89th Cong., 1st Sess. (1965). 579
(3) Committee of Conference, H R. REP. No. 1022, 89th Cong., 1st Sess. (1965). 622
(4) Congressional Record, Vol. 111 (1965):
(a) Jan. 28: Considered and passed Senate, pp. 1503–1519; 1521; 1525–1545; 638
(b) April 28: Considered and passed House, amended, pp. 8652–8690; 8736–8737; 703
(c) Sept. 21: House and Senate agree to conference report, pp. 24560–24562; 24583; 24587–24592. 790

1.2i 1966 Reorganization Plan No. 2, May 10, 1966, 31 Fed. Reg. 6857, 80 Stat. 1608. 805
(1) Interdepartmental Agreement Concerning Consultation on Health Aspects of Water Pollution Control, Secretary of the Interior, Secretary of Health, Education, and Welfare, July 1, 1966. 809

1.2j The Clean Water Restoration Act of 1966, November 3, 1966, P.L. 89–753, 80 Stat. 1246. 812
(1) House Committee on Public Works, H.R. REP. No. 2021, 89th Cong., 2d Sess. (1966). 824
(2) Senate Committee on Public Works, S. REP No. 1367, 89th Cong., 2d Sess. (1966). 944
(3) Committee of Conference, H.R. REP. No. 2289, 89th Cong., 2d Sess. (1966). 1005
(4) Congressional Record, Vol. 112 (1966):
(a) July 13: Considered and passed Senate, pp. 15585–15603; 15605–15620; 15624–15633; 1033

Page

(b) Sept. 30: Considered and passed House, pp. 24546–24547; 24592–24619; 24622–24624; 24629; 1124

VOLUME III

(c) Oct. 17: House and Senate agree to conference report, pp. 27131; 27137–27141; 27244–27247. 1195

1.2k The Water Quality Improvement Act of 1970, April 3, 1970, P.L. 91–224, 84 Stat. 91. 1212

(1) House Committee on Public Works, H.R. REP. No. 91–127, 91st Cong., 1st Sess. (1969). 1247

(2) Senate Committee on Public Works, S. REP. No. 91–351, 91st Cong., 1st Sess. (1969). 1324

(3) Committee of Conference, H.R. REP. No. 91–940, 91st Cong., 2d Sess. (1970). 1470

(4) Congressional Record:

(a) Vol. 115 (1969), April 15, 16: Considered and passed House, pp. 9015–9052; 9259; 9264–9292; 1611

VOLUME IV

(b) Vol. 115 (1969), Oct. 7, 8: Considered and passed Senate, amended, pp. 28947; 28953–29008; 29046–29065; 29089–29102; 1762

(c) Vol. 116 (1970), March 24: Senate agreed to conference report, pp. 8975; 8983–8984; 9003–9008; 1964

(d) Vol. 116 (1970), March 25: House agreed to conference report, pp. 9325–9334. 1976

(5) Message from the President of the United States "Conservation and Water Management," H.R. REP. Doc. No. 273, 90th Cong., 2d Sess. (1968). 1997

1.2l Rivers and Harbors Act of 1970, December 31, 1970, P.L. 91–611, Title I, §§120, 123, 84 Stat. 1823. 2017

(1) House Committee on Public Works, H.R. REP. No. 91–1665, 91st Cong., 2d Sess. (1970). 2020

(2) Senate Committee on Public Works, S. REP. No. 91–1422, 91st Cong., 2d Sess. (1970). 2023

(3) Committee of Conference, H.R. REP. No. 91–1782, 91st Cong., 2d Sess. (1970). 2024

(4) Congressional Record, Vol. 116 (1970):

(a) Dec. 7: Passed House, pp. 40139; 40143; 40145–40147; 40149; 2029

(b) Dec. 9: Amended and passed Senate, pp. 40594, 40598 2033

(c) Dec. 18: House agreed to conference report, pp. 42509, 42512; 2034

Page

(d) Dec. 19: Senate agreed to conference report, pp. 42724. 2035

1.2m Extension of Authorized Funds for Federal Water Pollution Control Act of 1971, July 9, 1971, P.L. 92–50, §§2, 3, 85 Stat. 124. 2035

(1) Senate Committee on Public Works, S. REP. No. 92–234, 92d Cong., 1st Sess. (1971). 2036

(2) Congressional Record, Vol. 117 (1971):

(a) June 23: Considered and passed Senate, p. S9807; 2037

(b) July 1: Considered and passed House, pp. H6229–H6230. 2038

1.2n Extension of Federal Water Pollution Control Act of 1971, October 13, 1971, P.L. 92–137, 85 Stat 379. 2040

(1) Senate Committee on Public Works, S. REP. No. 92–383, 92d Cong., 1st Sess. (1971). 2041

(2) Congressional Record, Vol. 117 (1971):

(a) Sept. 29: Passed Senate, p S15406; 2042

(b) Sept. 30: Passed House, pp. H8939–H8940. 2043

1.2o Extension of Certain Provisions of Federal Water Pollution Control Act of 1971, March 1, 1972, P.L. 92–240, 86 Stat. 47. 2044

(1) Senate Committee on Public Works, S. REP. No. 92–602, 92d Cong., 2d Sess. (1972). 2045

(2) House Committee on Public Works, H.R. REP. No. 92–812, 92d Cong., 2d Sess. (1972). 2046

(3) Committee of Conference, H.R. REP. No. 92–834, 92d Cong., 2d Sess. (1972). 2051

(4) Congressional Record, Vol. 118 (1972):

(a) Feb. 3: Considered and passed Senate, pp. S1165–S1166; 2054

(b) Feb. 7: Considered and passed House, amended, pp. H801–H808; 2055

(c) Feb. 16: House agreed to conference report, pp. H1056–H1057; 2069

(d) Feb. 16: Senate agreed to Conference Report, p. S1901. 2072

1.3 Pollution of the Sea by Oil, as amended, 33 U S.C. §1001, *et seq.* (1966). 2073

1.3a The Oil Pollution Control Act of 1961, August 30, 1961, P.L. 87–167, 75 Stat. 402. 2080

(1) Senate Committee on Commerce, S. REP. No. 666, 87th Cong., 1st Sess. (1961). 2087

(2) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 838, 87th Cong., 1st Sess. (1961). 2099

(3) Congressional Record, Vol. 107 (1961):

(a) Aug. 14: Amended and passed Senate, pp. 15663–15665; 2108

(b) Aug. 21: Passed House, pp. 16520–16521. 2109

1.3b 1966 Amendments to the Oil Pollution Act of 1961, September 1, 1966, P.L. 89–551, 80 Stat. 372. 2109

Page

(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 1620, 89th Cong., 2d Sess. (1966). 2113
(2) Senate Committee on Commerce, S. REP. No. 1479, 89th Cong., 2d Sess. (1966). 2136
(3) Congressional Record, Vol. 112 (1966):
(a) June 20: Considered and passed House, p. 13639–13640; 2158
(b) Aug. 19: Considered and passed Senate, p. 19991. 2158

1.4 Advances of Public Moneys, Prohibition Against, as revised, 31 U.S.C. §529 (1946). 2158
[Referred to in 33 U.S.C. §1155(g)(3)(A)]

1.4a Act of January 31, 1823, January 31, 1823, Chapter 9, §1, 3 Stat. 723. 2158
(1) House Committee on Public Expenditures, H.R. REP. No. 100, 17th Cong., 1st Sess. (1822).[1] 2159
(2) Senate Committee on Finance, 17th Cong., 2d Sess. (1823).[2] 2159
(3) Annals of Congress (1822–23):
(a) Dec. 9, 17: Debated, amended, passed House, pp. 336–338, 391–394; 2159
(b) Jan. 21, 23: Amended and passed Senate, pp. 147–150; 2163
(c) Jan. 27: House concurs in Senate amendments, pp. 699–700. 2163

1.4b To Authorize Certain Administrative Expenses in the Government Services, and for Other Purposes, August 2, 1946, P.L. 79–600, §11, 60 Stat. 809. 2163
(1) Committee on Expenditures in the Executive Departments, H.R. REP. No. 2186, 79th Cong., 2d Sess. (1946). 2163
(2) Committee on Expenditures in the Executive Departments, S. REP. No. 1636, 79th Cong., 2d Sess. (1946). 2165
(3) Congressional Record, Vol. 92 (1946):
(a) June 3: Amended and passed House, p. 6166; 2166
(b) June 17: Amended and passed Senate, p. 9190; 2166
(c) July 26: House concurs in Senate amendments, p. 10186. 2166

1.5 Public Contracts, Advertisements for Proposals for Purchases and Contracts for Supplies or Services for Government Departments; Application to Government Sales and Contracts to Sell and to Government Corporations, as amended, 41 U.S.C. §5 (1958). 2166
[Referred to in 33 U.S.C. §1155(g)(3)(A)]
(See, "General 1.14a–1.14c(2)(b)" for legislative history)

1.6 Courts of Appeals, Certiorari; Appeal; Certified Questions, as amended, 28 U.S.C. §1254 (1948). 2167
[Referred to in 33 U.S.C. §1157(g)(2)]

1.6a An Act to Codify, Revise and Amend the Laws Relating to

[1] Document in Dept. of Interior Library, but in nonreproducible condition.
[2] Report unpublished.

Page

the Judiciary, March 3, 1911, P.L. 61–475, §§239, 240, 36 Stat. 1157. 2168

1.6b Act to Amend the Judicial Code and to Further Define the Jurisdiction of Circuit Courts of Appeal and of the Supreme Court and for Other Purposes, February 13, 1925, P.L. 68–415, §1, 43 Stat. 936–939. 2168
(1) Senate Committee on the Judiciary, S. REP. No. 362, 68th Cong., 1st Sess. (1924). 2174
(2) House Committee on the Judiciary, H.R. REP. No. 1075, 68th Cong., 2d Sess. (1925). 2178
(3) Congressional Record, Vol. 66 (1925):
(a) Feb. 2: Amended and passed House, p. 2880; 2188
(b) Feb. 3: Amended and passed Senate, p. 2928; 2188
(c) Feb. 4: House concurs in Senate amendments, p. 3005. 2189

1.6c An Act in Reference to Writs of Error, January 31, 1928, P.L. 70–10, §1, 45 Stat. 54. 2191
(1) House Committee on the Judiciary, H.R. REP. No. 370, 70th Cong., 1st Sess. (1928). 2191
(2) Congressional Record, Vol. 69 (1928):
(a) Jan. 14: Passed Senate, p. 1486; 2192
(b) Jan. 25: Passed House, p. 2040. 2192

1.6d 1934 Amendments to 1893 Act, June 7, 1934, P.L. 73–298, 48 Stat. 926. 2192
(1) Senate Committee on the Judiciary, S. REP. No. 917, 73rd Cong., 2d Sess. (1934). 2193
(2) House Committee on the Judiciary, H.R. REP. No. 1748, 73rd Cong., 2d Sess. (1934). 2194
(3) Congressional Record, Vol. 78 (1934):
(a) May 10: Passed Senate, p. 8479; 2196
(b) June 5: Passed House, p. 10537. 2197

1.7 Davis-Bacon Act, as amended, 40 U.S.C. §§276a–276a–5 (1964). 2198
[Referred to in 33 U.S.C. §1158(g)]
(See, "General 1.13a–1.13h" for legislative history)

1.8 Per Diem, Travel, and Transportation Expenses; Experts and Consultants; Individuals Serving Without Pay, as amended, 5 U.S.C. §5703 (1966). 2202
[Referred to in 33 U.S.C. §§1159(a)(2)(B), 1160(c)(4), (i)]
(See, "General 1.15a–1.15d(3)(c)" for legislative history)

1.9 1909 Boundary Waters Treaty Between Canada and the United States and the Water Utilization Treaty of 1944 Between Mexico and the United States, 36 Stat. 2448 (1909), 59 Stat. 1219 (1944). 2203
[Referred to in 33 U.S.C. §1160(d)(2)]

1.9a Congressional Record, Vol. 91 (1945), April 18: Senate advises and consents to treaty and supplementary protocol, pp. 3480–3492. 2247

1.10 Disclosure of Confidential Information Generally, as amended, 18 U.S.C. §1905 (1948). 2273
[Referred to in 33 U.S.C. §§1160(f)(2), (k)(1); 1163(g)(3)]
(See, "General 1.16a–1.16a(3)(c)" for legislative history)

Page

1.11 Convention on the Territorial Sea and the Contiguous Zone, Article XXIV, 15 U.S.T. 1612, 1613 (1958). 2274
[Referred to in 33 U.S.C. §1161(a)(9)]
1.11a Congressional Record, Vol. 106 (1960), May 26: Ratification Advised by Senate, pp. 11187, 11189–11192. 2274

1.12 International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Article IV, as amended, 17 U.S.T. 1528 (1954). 2278
[Referred to in 33 U.S.C. §1161(b)(2)(A)]
1.12a Congressional Record, Vol. 110 (1964), Feb. 2: Ratification Advised by Senate, pp. 3471–3472, 3496. 2294

1.13 Granting Clearances, as amended, 46 U S.C. §91 (1954). 2295
[Referred to in 33 U.S.C. §1161(b)(5)]
1.13a Customs Enforcement Act of 1935, August 5, 1935, P.L. 74–238, Title II, §209, 49 Stat. 526. 2297
(1) House Committee on Ways and Means, H.R. REP. No. 868, 74th Cong., 1st Sess. (1935). 2297
(2) Senate Committee on Finance, S. REP. No. 1036, 74th Cong., 1st Sess. (1935). 2300
(3) Congressional Record, Vol. 78 (1935):
(a) June 11: Amended and passed House, p. 9077; 2302
(b) July 26: Passed Senate, p. 11939. 2302
1.13b 1938 Amendments to §§91, 92 of Title 46 U.S.C., June 16, 1938, P.L. 75–656, §1, 52 Stat. 758. 2302
(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 2521, 75th Cong., 3rd Sess. (1938). 2304
(2) Senate Committee on Commerce, S. REP. No. 2020, 75th Cong., 3rd Sess. (1938). 2306
(3) Congressional Record, Vol. 83 (1938):
(a) June 6: Passed House, p. 8226; 2308
(b) June 13: Passed Senate, p 8492. 2308
1.13c 1946 Reorganization Plan No. 3, §§101–104, May 16, 1946, 11 Fed. Reg. 7875, 60 Stat. 1097. 2308
1.13d Customs Simplification Act of 1954, September 1, 1954, P.L. 83–768, Title V, §501(a), 68 Stat. 1140. 2310
(1) House Committee on Ways and Means, H.R. REP. No. 2453, 83rd Cong., 2d Sess. (1954). 2310
(2) Senate Committee on Finance, S. REP. No. 2326, 83rd Cong., 2d Sess. (1954). 2312
(3) Congressional Record, Vol. 100 (1954):
(a) July 26: Passed House, p. 12036; 2312
(b) Aug. 12: Amended and passed Senate, p. 14264; 2312
(c) Aug. 16: House concurs in Senate amendments, p. 14631.[1] 2312

1.14 Outer Continental Shelf Lands Act, 43 U.S.C. §1331 *et seq.* (1953). 2313
[Referred to in 33 U.S.C. §1161(i)(2)]
1.14a Outer Continental Shelf Lands Act, August 7, 1953, P.L. 82–212, §§2–15, 67 Stat. 462. 2328
(1) House Committee on the Judiciary, H.R. REP. No. 413, 83rd Cong., 1st Sess. (1953). 2340

Page

VOLUME V

(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 411, 83rd Cong., 1st Sess. (1953). 2349
(3) Committee of Conference, H.R. REP. No. 1031, 83rd Cong., 1st Sess. (1953). 2434
(4) Congressional Record, Vol. 99 (1953):
(a) May 13: Amended and passed House, pp. 4881–4895; 2450
(b) June 26: Amended and passed Senate, pp. 7250–7265; 2481
(c) July 29: House agrees to conference report, p. 10420; 2514
(d) July 30: Senate agrees to conference report, pp. 10471–10476, 10478–10482, 10488–10490, 10492–10500. 2514

1.15 Administrative Procedure, as amended, 5 U.S.C. §§551–559, 701–705 (1968). 2556
[Referred to in 33 U.S.C. §§1162(b), 1163(e)]

1.15a Act to Enact Title 5, United States Code, September 6, 1966, P.L. 89–554, 80 Stat. 381–388, 392–393. 2570
(1) House Committee on the Judiciary, H.R. REP. No. 901, 89th Cong., 1st Sess. (1965). 2581
(2) Senate Committee on the Judiciary, S REP. No. 1380, 89th Cong., 2d Sess. (1966). 2591
(3) Congressional Record:
(a) Vol. 112 (1965), Sept. 7: Passed House, p. 22954; 2600
(b) Vol. 113 (1966), July 25: Amended and passed Senate, p. 17010; 2600
(c) Vol. 113 (1966), Aug. 11: House concurs in Senate amendments, p. 19077. 2600

1.15b To Amend Section 552 of Title 5, United States Code, June 5, 1967, P.L. 90–23, §1, 81 Stat. 54. 2601
(1) House Committee on the Judiciary, H.R. REP. No. 125, 90th Cong., 1st Sess. (1967). 2604
(2) Senate Committee on the Judiciary, S. REP. No. 248, 90th Cong., 1st Sess. (1967). 2611
(3) Congressional Record, Vol. 113 (1967):
(a) April 3: Passed House, pp. 8109–8110; 2620
(b) May 19: Amended and passed Senate, pp. 13253–13254; 2621
(c) May 25: House concurs in Senate amendments, p. 14056. 2621

1.15c Act to Amend Title 5, 10, and 37, United States Code to Codify Recent Laws, October 22, 1968, P.L. 90–623, §1(1), 82 Stat. 1312. 2622
(1) House Committee on the Judiciary, H.R. REP. No. 1721, 90th Cong., 2d Sess. (1968). 2622
(2) Senate Committee on the Judiciary, S. REP. No. 1624, 90th Cong., 2d Sess. (1968). 2623

Page

(3) Congressional Record, Vol. 114 (1968):
(a) Sept. 16: Amended and passed House, pp. 26929-26930; 2624
(b) Oct. 11: Passed Senate, p. 30832. 2624

1.16 Higher Education General Provisions, Definitions, as amended, 20 U.S.C. §1141 (1970). 2625
[Referred to in 33 U.S.C. §1169(1)(B)]

1.16a Higher Education Act of 1965, November 8, 1965, P.L. 89-329, Title XII, §801, 79 Stat. 1269. 2627
(1) House Committee on Education and Labor, H.R. REP. No. 621, 89th Cong., 1st Sess. (1965). 2628
(2) Senate Committee on Labor and Public Welfare, S. REP. No. 673, 89th Cong., 1st Sess. (1965). 2629
(3) Committee of Conference, H.R. REP. No. 1178, 89th Cong., 1st Sess. (1965). 2630
(4) Congressional Record, Vol. 111 (1965):
(a) Aug. 26: Debated, amended and passed House, p. 21925; 2632
(b) Sept. 2: Debated. amended and passed Senate, pp. 22714-22717; 2633
(c) Oct. 20: House agrees to conference report, p. 27678; 2633
(d) Oct. 20: Senate agrees to conference report, pp. 27595-27596. 2633

1.16b Higher Education Amendments of 1968, October 16, 1968, P.L. 90-575, Title II, §§251, 293, 294, 82 Stat. 1042, 1043, 1050, 1051. 2633
(1) Senate Committee on Labor and Public Welfare, S. REP. No. 1387, 90th Cong., 2d Sess. (1968). 2636
(2) House Committee on Education and Labor, H.R. REP. No. 1649, 90th Cong., 2d Sess. (1968). 2644
(3) Committee of Conference, H.R. REP. No. 1919, 90th Cong., 2d Sess. (1968). 2647
(4) Congressional Record, Vol. 114 (1968):
(a) July 15: Amended and passed Senate, p. 21272; 2651
(b) July 25: Amended and passed House, p. 23374; 2651
(c) Sept. 26: House agrees to conference report, pp. 28329, 28336-28337, 28339; 2651
(d) Oct. 1: Senate agrees to conference report, pp. 28975, 28982, 28983, 28985. 2651

1.16c Higher Education Act Amendments of 1970, April 13, 1970, P.L. 91-230, Title VIII, §806(b), 84 Stat. 192. 2651
(1) House Committee on Education and Labor H.R. REP. No. 91-114, 91st Cong., 1st Sess. (1969). 2652
(2) Senate Committee on Labor and Public Welfare, S. REP. No. 91-634, 91st Cong., 2d Sess. (1970). 2653
(3) Committee of Conference, H.R. REP. No. 91-937, 91st Cong., 2d Sess. (1970). 2654
(4) Congressional Record:
(a) Vol. 115 (1969), April 23: Considered and passed House, p. 10098; 2655

Page

(b) Vol. 116 (1970), Feb. 19: Amended and passed Senate, p. 4141; 2655
(c) Vol. 116 (1970), April 1: Senate agreed to conference report, p. 9999; 2655
(d) Vol. 116 (1970), April 7: House agreed to conference report, p. 10623. 2655

1.17 National Environmental Policy Act of 1969, 42 U.S.C. §4321 *et seq.* (1970). 2656
[Referred to in 33 U.S.C. §1165a(a), (b)]
(See, "General 1.2a–1.2a(4)(e)" for legislative history)

1.18 Public Health Service Act, as amended, 42 U.S.C. §§241, 243, 246 (1970). 2663
(See, "General 1.12a–1.12ae(3)(c)" for legislative history)

1.19 The Water Resource Planning Act, as amended, 42 U.S.C. §1962, *et seq.* (1971). 2681

1.19a Water Resources Planning Act, July 22, 1965, P.L. 89–80, 79 Stat. 244. 2705
(1) House Committee on Interior and Insular Affairs, H.R. REP. No. 169, 89th Cong., 1st Sess. (1965). 2709
(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 68, 89th Cong., 1st Sess. (1965). 2736
(3) Committee of Conference, H.R. REP. No. 603, 89th Cong., 1st Sess. (1965). 2748
(4) Congressional Record, Vol. 111 (1965):
(a) Feb. 25: Passed Senate, pp. 3621, 3626; 2764
(b) March 31: Amended and passed House, pp. 6406, 6412; 2766
(c) April 9: Senate request conference, p. 7676; 2766
(d) April 13: House appoints conferees, pp. 7926; 2766
(e) July 13: House agrees to conference report, pp. 16540, 16553–16554; 2767
(f) July 14: Senate agrees to conference report, pp. 16733–16735. 2769

1.19b Rivers and Harbors Act of 1970, December 31, 1970, P.L. 91–611, Title II, §§209, 221, 84 Stat. 1829, 1831. 2773
(1) House Committee on Public Works, H.R. REP. No. 91–1665, 91st Cong., 2d Sess. (1970). 2774
(2) Senate Committee on Public Works, S. REP. No. 91–1422, 91st Cong., 2d Sess. (1970). 2777
(3) Committee of Conference, H.R. REP. No. 91–1782, 91st Cong., 2d Sess. (1970). 2778
(4) Congressional Record, Vol. 116 (1970):
(a) Dec. 7: Amended and passed House, p. 40148; 2780
(b) Dec. 19: Amended and passed Senate, pp. 40593–40599, 40613, 40619–40620; 2782
(c) Dec. 18: House agrees to conference report, pp. 42509–42510, 42513–42514; 2782
(d) Dec. 19: Senate agrees to conference report, pp. 42724, 42727, 42728. 2786

1.19c Water Resources Planning Act Amendments of 1971, June 17, 1971, P.L. 92–27, 85 Stat. 77. 2787

Page

(1) House Committee on Interior and Insular Affairs, H.R. REP. No. 92-197, 92d Cong., 1st Sess. (1971). 2787
(2) Senate Committee on Interior and Insular Affairs, S. REP. No. 92-139, 92d Cong., 1st Sess. (1971). 2791
(3) Congressional Record, Vol. 117 (1971):
(a) May 17: Considered and passed House, pp. H3981-H3982; 2795
(b) June 7: Considered and passed Senate, pp. S8377-S8378. 2796

1.20 Appalachian Regional Development Act of 1965, as amended, 40 App. U.S.C. §§212, 214 (1971). 2798

1.20a Appalachian Regional Development Act of 1965, March 9, 1965, P.L. 89-4, §§212, 214, 79 Stat. 16, 17. 2800
(1) Senate Committee on Public Works, S. REP. No. 13, 89th Cong., 1st Sess. (1965). 2802
(2) House Committee on Public Works, H.R. REP. No. 51, 89th Cong., 1st Sess. (1965). 2807
(3) Congressional Record, Vol. 111 (1965):
(a) Feb. 1: Amended and passed Senate, p. 1715;* 2809
(b) March 3: Passed House, p. 4030.* 2809

1.20b 1966 Reorganization Plan No. 2, May 10, 1966, 80 Stat. 1608. 2809

1.20c To Revise and Extend the Appalachian Regional Development Act of 1965, and to Amend the Public Works and Economic Development Act of 1965, October 11, 1967, P.L. 90-103, Title I, §§114, 116, 81 Stat. 262, 263. 2812
(1) Senate Committee on Public Works, S. REP. No. 159, 90th Cong., 1st Sess. (1967). 2814
(2) House Committee on Public Works, H.R. REP. No. 548, 90th Cong., 1st Sess. (1967). 2820
(3) Committee of Conference, H.R. REP. No. 706, 90th Cong., 1st Sess. (1967). 2829
(4) Congressional Record, Vol. 113 (1967):
(a) April 26, 27: Debated, amended and passed Senate, p. 10964; 2831
(b) Sept. 13, 14: Debated, amended and passed House, pp. 25286, 25288-25290, 25316-25317, 25578-25579, 25618-25620; 2832
(c) Sept. 28: House agrees to conference report, p. 27183; 2832
(d) Sept. 29: Senate agrees to conference report, pp. 27327-27328. 2832

1.20d 1969 Amendments to the Appalachian Regional Development Act, November 25, 1969, P.L. 91-123, Title I, §107, 83 Stat. 215. 2833
(1) House Committee on Public Works, H.R. REP. No. 91-336, 91st Cong., 1st Sess. (1969). 2834
(2) Senate Committee on Public Works, S. REP. No. 91-291, 91st Cong., 1st Sess. (1969). 2835

* Denotes pertinent section is not discussed—page number provided only as complete legislative history.

Page

(3) Committee of Conference, H.R. REP. No. 91-614, 91st Cong., 1st Sess. (1969). 2837
(4) Congressional Record, Vol. 115 (1969):
(a) July 8: Passed Senate, p. 18556;* 2838
(b) July 15: Amended and passed House, p. 19607;* 2838
(c) Nov. 5: Senate agrees to conference report, p. 33031;* 2838
(d) Nov. 19: House agrees to conference report, p. 34890.* 2838

1.20e Airport and Airway Development and Revenue Act of 1970, May 21, 1970, P.L. 91-258, Title I, §52(b)(5), 84 Stat. 235. 2838
(1) House Committee on Interstate and Foreign Commerce, H.R. REP. No. 91-601, 91st Cong., 1st Sess. (1969). 2839
(2) Senate Committee on Commerce, S. REP. No. 91-565, 91st Cong., 1st Sess. (1969). 2840
(3) Senate Finance Committee, S. REP. No. 91-706, 91st Cong., 2d Sess. (1970). 2840
(4) Committee of Conference, H.R. REP. No. 91-1074, 91st Cong., 2d Sess. (1970). 2841
(5) Congressional Record:
(a) Vol. 115 (1969), Nov. 6: Passed House, p. 33312;* 2841
(b) Vol. 116 (1970), Feb. 26: Amended and passed Senate, p. 5083;* 2841
(c) Vol. 116 (1970), May 12: Senate agrees to conference report, p. 15136;* 2842
(d) Vol. 116 (1970), May 13: House agrees to conference report, p. 15297.* 2842

1.20f Appalachian Regional Development Act Amendments of 1971, August 5, 1971, P.L. 92-65, Title II, §210, 85 Stat. 171. 2842
(1) Senate Committee on Public Works, S. REP. No. 92-273, 92d Cong., 1st Sess. (1971). 2843
(2) House Committee on Public Works, H.R. REP. No. 92-372, 92d Cong., 1st Sess. (1971). 2844
(3) Congressional Record, Vol. 117 (1971):
(a) July 21: Passed Senate, p. S11769;* 2846
(b) July 28: Passed House, p. H7328;* 2846
(c) July 30: Senate agrees to House amendments, p. S12558.* 2846

1.21 The Disaster Relief Act, 40 U.S.C. §4401, *et seq.* (1970). 2847
(See, "General 1.8a-1.8a(4)(f)" for legislative history)

1.22 Department of Transportation Act, 49 U.S.C. §1653(f) (1968). 2867
(See, "General 1.5a-1.5a(3)(f)" for legislative history)

1.23 Federal Aid Highway Act, as amended, 23 U.S.C. §109(h) (1970). 2868
(See, "General 1.6a-1.6d(3)(f)" for legislative history)

1.24 Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169(d)(1)(B), (3) (1969). 2871
(See, "General 1.4a-1.4a(5)(c)" for legislative history)

1.25 Airport and Airway Development Act, 49 U.S.C. §§1712(f), 1716(c)(4), (e) (1970). 2875
(See, "General 1.7a-1.7a(4)(d)" for legislative history)

Page

1.26 Interest on Certain Government Obligations, as amended, 26 U.S.C. §103 (1969). 2878
(See, "General 1.9a–1.9d(4) (d)" for legislative history)

1.27 Fish and Wildlife Coordination Act, as amended, 16 U.S.C. §§661–666c (1965). 2880
1.27a To Promote the Conservation of Wildlife, Fish and Game, and for Other Purposes, March 10, 1934, P.L. 73–121, 48 Stat. 401. 2889
(1) Senate Special Committee on Conservation of Wildlife Resources, S. REP. No. 244, 73rd Cong., 2d Sess. (1934). 2891
(2) House Committee on Agriculture, H.R. REP. No. 850, 73rd Cong., 2d Sess. (1934). 2892
(3) Congressional Record, Vol. 78 (1934):
(a) Feb. 6: Passed Senate, pp. 2010–2011; 2893
(b) March 5: Passed House, pp. 3725–3726. 2895

1.27b Reorganization Plan No. II, §4(e), (f), 53 Stat. 1433. 2899
(1) Message from the President of the United States, H.R. DOC. No. 288, 76th Cong., 1st Sess. (1939). 2900

1.27c 1940 Reorganization Plan No. III, §3, 54 Stat. 1232. 2901
(1) Message from the President of the United States, H.R. DOC. No. 681, 76th Cong., 3rd Sess. (1940). 2902

1.27d To Amend the Act of March 10, 1934, August 14, 1946, P.L. 79–732, 60 Stat. 1080. 2903
(1) House Committee on Agriculture, H.R. REP. No. 1944, 79th Cong., 2d Sess. (1946). 2907
(2) Senate Committee on Agriculture, S. REP. No. 1698, 79th Cong., 2d Sess. (1946). 2912
(3) Senate Committee on Agriculture, S. REP. No. 1748, 79th Cong., 2d Sess. (1946). 2916
(4) Congressional Record, Vol. 92 (1946):
(a) May 7: Passed House, pp. 4560–4561; 2920
(b) July 17: Senate recommits, p. 9205; 2923
(c) July 29: Amended and passed Senate, p. 10349; 2924
(d) July 30: House concurs in Senate amendments, p. 10489. 2925

1.27e To Amend the Act of March 10, 1934, as amended, June 19, 1948, P.L. 80–697, 62 Stat. 497. 2926
(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 504, 80th Cong., 1st Sess. (1947). 2927
(2) Senate Committee on Interstate and Foreign Commerce, S. REP. No. 1448, 80th Cong., 2d Sess. (1948). 2934
(3) Congressional Record:
(a) Vol. 93 (1947), June 16: Passed House, pp. 7086–7087; 2938
(b) Vol. 94 (1948), June 10: Amended and passed Senate, p. 7693; 2940
(c) Vol. 94 (1948), June 11: House concurs in Senate amendments, p. 7889. 2940

Page

1.27f To Amend the Act of March 10, 1934, as amended, August 12, 1958, P.L. 85–624, §2, 72 Stat. 563. 2940

VOLUME VI

(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 2183, 85th Cong., 2d Sess. (1958). 2947
(2) Senate Committee on Interstate and Foreign Commerce, S. REP. No. 1981, 85th Cong., 2d Sess. (1958). 2958
(3) Congressional Record, Vol. 104 (1958):
(a) July 21: Passed House, pp. 1440–1442; 2979
(b) July 31: Passed Senate, p. 15713. 2979
1.27g Federal Water Project Recreation Act, July 9, 1965, P.L. 89–72, §6(b), 79 Stat. 216. 2979
(1) Senate Committee on Interior and Insular Affairs, S. REP. No. 149, 89th Cong., 1st Sess. (1965). 2980
(2) House Committee on Interior and Insular Affairs, H.R. REP. No. 254, 89th Cong., 1st Sess. (1965). 2983
(3) Committee of Conference, H.R. REP. No. 538, 89th Cong., 1st Sess. (1965). 2984
(4) Congressional Record, Vol. 111 (1965):
(a) April 13: Amended and passed Senate, p. 7891; 2985
(b) May 18: Amended and passed House, p. 10881; 2985
(c) June 23: House agrees to conference report, p. 14464; 2985
(d) June 25: Senate agrees to conference report, p. 14814.* 2985
1.28 Public Works and Economic Development Act of 1965, 42 U.S.C. §3136 (1965). 2986
1.28a Public Works and Economic Development Act of 1965, August 26, 1965, P.L. 89–136, §106, 79 Stat. 554. 2986
(1) Senate Committee on Public Works, S. REP. No. 193, 89th Cong., 1st Sess. (1965).* 2987
(2) House Committee on Public Works, H.R. REP. No. 539, 89th Cong., 1st Sess. (1965).* 2988
(3) Congressional Record, Vol. 111 (1965):
(a) June 1: Debated, amended and passed Senate, p. 12183;* 2988
(b) Aug. 12: Debated, amended, and passed House, pp. 20250–20251; 2988
(c) Aug. 16: Senate concurs in House amendments, p. 20571.* 2988
1.28b Reorganization Plan No. 2 of 1966, 80 Stat. 1608. 2989
(1) Message from the President of the United States, H.R. DOC. No. 388, 89th Cong., 2d Sess. (1966). 2991
1.29 River and Harbor Act of 1910, 33 U.S.C. §421. 2994
[Referred to in 33 U.S.C. §1371(b)]
1.29a River and Harbor Act of 1910, June 23, 1910, P.L. 61–245, 36 Stat. 593. 2995

Page

(1) House Committee on Interstate and Foreign Commerce, H.R. REP. No. 1120, 61st Cong., 2d Sess. (1910). 2996
(2) Committee on Conference, H.R. REP. No. 1613, 61st Cong., 2d Sess. (1910).* 3003
(3) Congressional Record, Vol. 45 (1910):
(a) May 2: Amended and passed House, p. 5672;* 3003
(b) May 12: Amended and passed Senate, p. 6119;* 3003
(c) June 16: Senate agrees to conference report, p. 8219;* 3003
(d) June 17: House agrees to conference report, p. 8439.* 3003

1.30 Supervisory Harbors Act of 1888, as amended, 33 U.S.C. §§441–451 (1958) 3003
[Referred to in 33 U.S.C. §1371.]

1.30a. New York Harbor Act of 1888, June 29, 1888, P.L. 50–496, 25 Stat. 209. 3010
(1) Senate Committee on Commerce, S. REP. No. 224, 50th Cong., 1st Sess. (1888). 3012
(2) House Committee on Commerce, H.R. REP. No. 1963, 50th Cong., 1st Sess. (1888). 3015
(3) Congressional Record, Vol. 19, (1888):
(a) March 21, April 6: Debated, amended and passed Senate, pp. 2300–2301, 2775;* 3015
(b) June 4: Debated, amended and passed House, pp. 4889–4890; 3015
(c) June 14: Senate concurs in House amendments, p. 5239.* 3018

1.30b River and Harbor Act of 1894, August 18, 1894, P.L. 53–299, §§3, 5, 28 Stat. 360 3018
(1) House Committee on Rivers and Harbors, H.R. REP. No. 639, 53rd Cong., 2d Sess. (1894).* 3023
(2) Senate Committee on Commerce, S. REP. No. 519, 53rd Cong., 2d Sess. (1894).* 3023
(3) Committee of Conference, 53rd Cong., 2d Sess., Congressional Record, Vol. 26 (1894), pp. 8173–8175.* 3023
(4) Congressional Record, Vol. 26 (1894):
(a) May 4: Debated, amended and passed House, pp. 4376, 4430; 3023
(b) July 13: Amended and passed Senate, p. 7414;* 3024
(c) Aug. 6: Senate agreed to conference report, p. 8230;* 3024
(d) Aug. 6: House agreed to conference report, p. 8251.* 3024

1.30c 1908 Amendments to 1894 Act, May 28, 1908, P.L. 60–152, §8, 35 Stat. 426. 3024
(1) House Committee on the Merchant Marine and Fisheries, H.R. REP. No. 1672, 60th Cong., 1st Sess. (1908). 3028
(2) Senate Committee on Commerce, 60th Cong., 1st Sess., Congressional Record, Vol. 42 (1908), p. 6963.* 3030

Page

(3) Congressional Record, Vol. 42 (1908):
(a) May 25: Considered and passed House, pp. 6901–6905; 3030
(b) May 26: Considered and passed Senate, pp. 6963–6972.* 3034

1.30d 1909 Amendments to 1908 Act, February 16, 1909, P.L. 60–231, 35 Stat. 623. 3034
(1) House Committee on the Merchant Marine and Fisheries, H.R. REP. No. 2102, 60th Cong., 2d Sess. (1909). 3035
(2) Congressional Record, Vol. 43 (1909):
(a) Feb. 10: Amended and passed House, p. 2149;* 3036
(b) Feb. 11: Passed Senate, pp. 2195–2196.* 3036

1.30e Repealing Certain Obsolete Provisions of Law Relating to the Naval Service, June 29, 1949, P.L. 81–144, 63 Stat. 300. 3036
[No Relevant Discussion]

1.30f 1952 Amendments to the New York Harbor Act of 1888, July 12, 1952, P.L. 82–526, 66 Stat. 596. 3036
(1) House Committee on Public Works, H.R. REP. No. 2260, 82d Cong., 2d Sess. (1952). 3037
(2) Senate Committee on Public Works, S. REP. No. 2088, 82d Cong., 2d Sess. (1952). 3039
(3) Congressional Record, Vol. 98 (1952):
(a) June 25: Passed House, p. 8079;* 3040
(b) July 4: Passed Senate, p. 9317.* 3040

1.30g 1958 Amendments to Act of 1888, August 28, 1958, P.L. 85–802, §1, 72 Stat. 970. 3040
(1) House Committee on Public Works, H.R. REP. No. 2233, 85th Cong., 2d Sess. (1958). 3042
(2) Senate Committee on Public Works, S. REP. No. 2383, 85th Cong., 2d Sess. (1958). 3050
(3) Congressional Record, Vol. 104 (1958):
(a) Aug. 4: Amended and passed House, pp. 16021–16022.* 3052
(b) Aug. 18: Passed Senate, p. 18033.* 3052

1.31 Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. §1005 (1972). 3052

1.31a Rural Development Act of 1972, August 30, 1972, P.L. 92–419, §201(g), 86 Stat. 669. 3053
(1) House Committee on Agriculture, H.R. REP. No. 92–835, 92d Cong., 2d Sess. (1972). 3055
(2) Senate Committee on Agriculture and Forestry, S. REP. No. 92–734, 92d Cong., 2d Sess. (1972). 3062
(3) Committee of Conference, H.R. REP. No. 92–1129, 92d Cong., 2d Sess. (1972). 3068
(4) Congressional Record, Vol. 118 (1972):
(a) Feb. 23: Considered and passed House;* 3068
(b) April 19, 20: Considered and passed Senate, amended, in lieu of S. 3462,* 3068
(c) July 27: House agreed to conference report;* 3068

Page

(d) Aug. 17: Senate agreed to conference report.* 3068
1.32 Reefs for Marine Life Conservation, 16 U.S.C. §1220 (1972). 3069
1.32a Commerce Department Maritime Programs, August 22, 1972, P.L. 92-402, §3(b), 86 Stat. 617. 3069
(1) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 92-934, 92d Cong., 2d Sess. (1972).* 3070
(2) Senate Committee on Commerce, S. REP. No. 92-841, 92d Cong., 2d Sess. (1972).* 3071
(3) Congressional Record, Vol. 118 (1972):
(a) April 11: Considered and Passed House;* 3071
(b) July 26: Considered and passed Senate, amended, S11935-S11937; 3071
(c) Aug. 14: House concurred in Senate amendments.* 3077
1.33 Coastal Zone Management Act of 1972, 16 U.S.C. §1451 *et seq.* (1972). 3077
1.33a Marine Resources and Engineering Development Act of 1966, Amendments, October 27, 1972, P.L. 92-583, §307(3)(f), 86 Stat. 1286. 3087
(1) Senate Committee on Commerce, S. REP. No. 92-753, 92d Cong., 2d Sess. (1972). 3099
(2) House Committee on Merchant Marine and Fisheries, H.R. REP. No. 92-1049, 92d Cong., 2d Sess. (1972). 3104
(3) Committee of Conference, H.R. REP. No. 92-1544, 92d Cong., 2d Sess. (1972). 3111
(4) Congressional Record, Vol. 118 (1972):
(a) April 25: Considered and passed Senate, pp. S6654-S6673; 3112
(b) Aug. 2: Considered and passed, House, amended, in lieu of H.R. 14146;* 3142
(c) Oct. 12: House and Senate agreed to conference report.* 3142

2. EXECUTIVE ORDERS

2.1 E.O. 11490, Assigning of Emergency Preparedness Functions to Federal Agencies and Departments, October 30, 1969, 34 Fed. Reg. 17567. 3145
2.2 E.O. 11507, Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities, February 4, 1970, 35 Fed. Reg. 2573. 3197
2.3 E.O. 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, 35 Fed. Reg. 4247. 3203
2.4 E.O. 11548, Delegating Functions of the President Under the Federal Water Pollution Control Act, as amended, July 20, 1970, 35 Fed. Reg. 11677. 3207
2.5 E.O. 11574, Administration of the Refuse Act Permit Program, December 23, 1970, 35 Fed. Reg. 19627. 3211
2.5a Statement by the President on Signing an Executive Order Providing for the Establishment of a Federal Permit

Page

Program to Regulate the Discharge of Waste into the Waters of the United States, Weekly Compilation of Presidential Documents, December 23, 1970, p. 1724. 3212

2.5b Congressional Record, Vol. 117 (1971), Feb. 4: House discussion of the Refuse Act Permit Program, pp. 1754–1763. 3213

2.5c Congressional Record, Vol. 117 (1971), Feb. 4: Senate discussion of the 1899 Refuse Act, pp. 1673; 1679–1684; 3233

2.6 E.O. 11575, Administration of the Disaster Relief Act of 1970, December 31, 1970, 36 Fed. Reg. 37. 3244

2.7 E.O. 11578, Ohio River Basin Commission, January 13, 1971, 36 Fed. Reg. 683. 3246

2.8 E.O. 11613, Membership of Environmental Protection Agency on the Established River Basin Commissions, August 2, 1971, 36 Fed. Reg. 14299. 3248

2.9 E.O. 11331, Establishment of Pacific Northwest River Basins Commission, March 6, 1967, 32 Fed. Reg. 3875, as amended by E.O. 11613, Aug. 2, 1971, 36 Fed. Reg. 14299. 3249

2.10 E.O.11345, Establishment of the Great Lakes Basin Commission, April 20, 1967, 32 Fed. Reg. 6329, as amended by E.O. 11613, Aug. 2, 1971, 36 Fed. Reg. 14299; E.O. 11646, Feb. 8, 1972, 37 Fed. Reg. 2925. 3251

2.11 E.O. 11359, Establishment of the Souris-Red-Rainy River Basin Commission, June 20, 1967, 32 Fed. Reg. 8851, as amended by E.O. 11613, Aug. 2, 1971, 36 Fed. Reg. 14299; E.O. 11635, Dec. 9, 1971, 36 Fed. Reg. 23615. 3253

2.12 E.O. 11371, Establishment of the New England River Basins Commission, September 6, 1967, 32 Fed. Reg. 12903, as amended by E.O. 11528, Apr. 24, 1970, 35 Fed. Reg. 6695; E.O. 11613, Aug. 2, 1971. 3255

2.13 E.O. 11658, Establishment of the Missouri River Basin Commission, March 22, 1972, 37 Fed. Reg. 6045. 3257

2.14 E.O. 11659, Establishment of the Upper Mississippi River Basin Commission, March 22, 1972, 37 Fed. Reg. 6047. 3259

3. REGULATIONS

3.1 Grants for Water Pollution Control, Environmental Protection Agency, 18 C.F.R. §§501.1–601.125 (1971). 3261

3.2 Certification of Facilities, Environmental Protection Agency, 40 C.F.R. §§20.1–20.10 (1971).

3.3 Water Pollution Control Planning, Environmental Protection Agency, 40 C.F.R. §§35.001–35.002, 35.150 (1972).

3.4 Water Quality Management Planning Grants, Environmental Protection Agency, 40 C.F.R. §§35.200–35.240 (1972).

3.5 Water Pollution Control and Interstate Program Grants, Environmental Protection Agency, 40 C.F.R. §§35.551–35.575 (1972).

3.6 Grants for Construction of Wastewater Treatment Works, Environmental Protection Agency, 40 C.F.R. §§35.800–35.850 (1972).

3.7 Grants for Construction of Treatment Works—Federal Water Pollution Control Act Amendments of 1972, Environmental Protection Agency, 40 C.F.R. §§35.910 (1972).

Page

3.8 Standard Setting Conferences, Hearings and Notification of Alleged Violators of Water Quality Standards, Environmental Protection Agency, 40 C.F.R. §§104.1–104.24 (1972).
3.9 Public Hearings Under Federal Water Pollution Control Act, Environmental Protection Agency, 40 C.F.R. §§106.1–106.13 (1972).
3.10 Filing of Reports with the Administrator by Persons Whose Alleged Activities Result in Discharges Causing or Contributing to Water Pollution, Environmental Protection Agency, 40 C.F.R. §§107.1–107.7 (1971).
3.11 Criteria for State, Local, and Regional Oil Removal Contingency Plans, Environmental Protection Agency, 40 C.F.R. §§109.1–109.6 (1971).
3.12 Discharge of Oil, Environmental Protection Agency, 40 C.F.R. §§110.1–110.9 (1971).
3.13 Water Quality Standards, Environmental Protection Agency, 40 C.F.R. §§120.1–120.11 (1972).
3.14 Revision of Water Quality Standards, Environmental Protection Agency, 40 C.F.R. §§122.1–122.14 (1971).
3.15 State Certification of Activities Requiring a Federal License or Permit, Enrivronment Protection Agency, 40 C.F.R. §123 (1972).
3.16 Marine Sanitation Device Standards, Environmental Protection Agency, 40 C.F.R. §§140.1–140.5 (1972).
3.17 Control of Pollution by Oil and Hazardous Substances, Discharge Removal, Department of Transportation, 33 C.F.R. §§153.01–153.105 (1970).
3.18 Corps of Engineers Regulations Under Refuse Act, Permit for Discharge or Disposal Into Navigable Waters, 33 C.F.R. §§209.10–209.13 (1971).
3.19 Drinking Water Standards, Public Health Service, 42 C.F.R. §§72.201–72.207 (1971).
3.20 Financial Responsibility for Oil Pollution Cleanup, Federal Maritime Commission, 46 C.F.R. §§542.1–542.9 (1971).
3.21 Delegation of Authority With Respect to the Administration of Water Quality Improvement Act of 1970, Department of Transportation, 49 C.F.R. §1.46 (1971).

4. GUIDELINES AND REPORTS
4.1 EPA Annual Report on National Requirements and Costs of Water Pollution Control, as required by 33 U.S.C. §1175(a) as amended (1970). 3267
4.1a Cost of Clean Water, Vol. I, Municipal Investment Needs, Vol. II, Cost Effectiveness and Clean Water, Environmental Protection Agency, March 1971. 3267
4.1b Economics of Clean Water, Vol. I & II, Environmental Protection Agency, February 1972. 3391
4.2 Selected Reports:
4.2a Federal Laws Affecting Rivers and Harbors Works, A Lecture Given by Judge G. W. Koonce, O.C.E. Before the Company Officers Class, the Engineering School, Ft. Humphreys, Va., April 23, 1926. 3517

Page

VOLUME VII

4.2b Our Waters and Wetlands: How the Corps of Engineers Can Help Prevent Their Destruction and Pollution, Committee on Government Operations, H.R. REP. No. 91-917, 91st Cong., 2d Sess. (1970). 3533
4.2c Qui tam Actions and the 1899 Refuse Act, Citizen Lawsuits Against Polluters of the Nations Waterways, House Subcommittee on Conservation and Natural Resources of the Committee on Government Operations, 91st Cong., 2d Sess. (1970). 3556
4.2d Clean Water for the 1970's, a Status Report, U.S. Department of the Interior, Federal Water Quality Administration, June 1970. 3592
4.3 National Oil and Hazardous Material Pollution Contingency Plan, Council on Environmental Quality, August 20, 1971. 3706
4.4 Guidelines for Litigation Under the Refuse Act Permit Program, Department of Justice, April 7, 1972. 3720
4.5 Water Quality Standards Summaries:
4.5a "Standards for Temperature," Environmental Protection Agency, Division of Water Quality Standards, March 1971. 3722
4.5b "Standards for Disinfection," Environmental Protection Agency, Division of Water Quality Standards, May 1971. 3732
4.5c "Standards for Mercury and Heavy Metals," Environmental Protection Agency, Division of Water Quality Standards, May 1971. 3739
4.5d "Standards for Radioactive Materials," Environmental Protection Agency, Division of Water Quality Standards, May 1971. 3747
4.5e "Standards for Phosphates," Environmental Protection Agency, Division of Water Quality Standards, June 1971. 3750
4.5f "Standards for Mixing Zones," Environmental Protection Agency, Division of Water Quality Standards, September 1971. 3767
4.5g "Standards for Radioactive Materials," Environmental Protection Agency, Division of Water Quality Standards, November 1971. 3775
4.5h "Standards for Nitrates," Environmental Protection Agency, Division of Water Quality Standards, November 1971. 3782
4.5i "Standards for Antidegradation," Environmental Protection Agency, Division of Water Quality Standards, April 1972. 3813
4.6 Memorandum of Understanding Between the Environmental Protection Agency and the Department of Transportation, 36 Fed. Reg. 24080 (1971). 3831
4.7 Discharges of Oil for Research Development and Demonstration Purposes, Guidelines, Environmental Protection Agency, 36 Fed. Reg. 7326 (1971). 3834
4.8 Memorandum of Understanding Providing for Cooperation in the Investigation of Violations of the Refuse Act Between Ad-

ministrator of the Environmental Protection Agency and the Secretary of the Army, 36 Fed. Reg. 3074 (1971). 3836
4.9 Report to Congress on Water Pollution Control Manpower Development and Training Activities, Environmental Protection Agency, Office of Water Programs, March 1972. . . 3839

1.2j(4)(c) Oct. 17: House and Senate agree to conference report, *pp. 27131, 27137–27141, 27244–27247*

CLEAN WATER RESTORATION ACT OF 1966—CONFERENCE REPORT

Mr. BLATNIK. On October 15, 1966, pursuant to the order of the House on October 14, 1966, I submitted the following concurrence report and statement on the bill (S. 2947) to amend the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such act:

* * * * *

[p. 27131]

Mr. BLATNIK. Mr. Speaker, I call up the conference report on the bill (S. 2947) to amend the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such act, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the statement.

The SPEAKER. The Chair recognizes the gentleman from Minnesota [Mr. BLATNIK].

Mr. BLATNIK. Mr. Speaker, I am proud and privileged to report back to the House today with the conference report on the "Clean Waters Restoration Act of 1966," S. 2947. This House unanimously passed legislation covering the field of water pollution several weeks ago. As a result of amicable and far-reaching meetings with conferees of the other body we come before you today with a conference report which has the unanimous support of all Members of the conferees on both sides of the aisle and in both bodies.

This is a forward-looking and far-reaching piece of legislation we present for your approval today. It moves the fight against the pollution of all of our Nation's waters forward on a proper and intelligently escalated scale. As the New York Times said "it is a good piece of legislation." I strongly recommend the approval of this conference report.

I would like to pay particular tribute to my fellow conferees on both sides of the aisle; to our distinguished chairman, another fighter in the field of water pollution, the gentleman from Maryland [Mr. FALLON]; one of the outstanding experts in the field of water pollution and a man who has traveled all sections of this country in an effort to help clean up our waters, the gentleman from Alabama [Mr. JONES]; another outstanding advocate in the field of water pollution, the gentleman from Illinois [Mr. KLUCZYNSKI], and finally a man who has contributed mightily over the years to the drive for a stronger and more effective Federal program in the field of water pollution, the gentleman from Texas [Mr. WRIGHT], as well as the ranking minority Member, the gentleman from Florida [Mr. CRAMER] and his associates, the gentleman from Ohio [Mr. HARSHA], and the gentleman from Pennsylvania [Mr. KUNKEL].

Some of the highlights of the conference report are as follows: This report authorizes $3.4 billion for construction grants for sewage treatment plants for the fiscal years 1968 through 1971; $450 million for fiscal year 1968, $700 million for fiscal year 1969, $1 billion for fiscal year 1970, and $1,250 million for fiscal year 1971. This represents an increase of $1,100 million over the total amount originally authorized by the House for 4 fiscal years and a decrease of some $2,450 million in the original version of the other body for 5 fiscal years. Under the conference report the dollar limitation on individual grants and combined grants is done away with and in all cases the amount authorized for a Federal share for a single project or a combined

one is 30 percent of the total cost. In addition thereto we continue under the conference report we present today to make every effort to make the State a partner in the program as was first brought about by the Committee on Public Works when it reported last year's water pollution bill. If a State agrees to match 30 percent of the total cost of an individual or combined project, the Federal share is increased to 40 percent and the municipal share, in turn, becomes 30 percent. We thus have a Federal-State-municipal partnership. Further, if a State will match 25 percent of the total cost of an individual or combined project and agrees to establish intrastate standards covering streams flowing wholly within its boundaries under rules and regulations to be established by the Governor of the State or a State water pollution control board and not subject to review by any Federal agency, then in that case the Federal share of an individual or combined project becomes 50 percent and the local share is 25 percent. This, we believe, is another move forward to bring about a working combination so that all levels of government throughout this great country can participate in this major effort to clean up our waters.

The report before you also contains for the first time language to allow grants to be made to industry for research in the fields of water pollution.

It contains as well a section somewhat similar to language now contained in Federal aid highway legislation covering reimbursement. This section would do the following:

Section 204 of the conference substitute amends section 8(c) of the Federal Water Pollution Control Act to provide that in the case of any project on which construction was initiated after June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary finds meets the requirements of section 8 but which was constructed without Federal financial assistance, the allotments for construction grants for any fiscal year ending before July 1, 1971, shall also be available to make payments for reimbursement of State or local funds used for that project before July 1, 1971, to the extent that financial assistance could have been provided under section 8 if the project had been approved pursuant to section 8 and adequate funds had been available to make a grant for the project. In the case of a project on which construction was initiated after June 30, 1966, and which was constructed with financial assistance pursuant to section 8 but the amount of such assistance was a lesser percent of the cost of construction than was allowable pursuant to section 8, such allotments shall also be available for payments and reimbursement of State or local funds used for such project before July 1, 1971, to the extent that assistance could have been provided under this section if adequate funds had been available. Neither a finding by the Secretary that a project meets the requirements of this section nor any other provision of section 8(c) is to be construed to constitute a commitment or obligation of the United States to provide funds or to make or to pay any grant for such project.

[p. 27137]

In the case of projects commenced after June 30, 1966, which were constructed with assistance pursuant to section 8 but which assistance was a lesser percent of the cost than allowable pursuant to this section, the conferees intend that reimbursement of amounts shall be subject to the limitations of law in effect at the time the project is initiated.

The conferees do not intend to create a preferred class of projects that would be entitled to reimbursement at these higher percentages provided in the conference substitute.

The conference report adds a new section 16 to the Federal Water Pollution Control Act to require the Secretary of the Interior to make a detailed estimate of the cost of carrying out the Federal

Water Pollution Control Act, a comprehensive study of the economic impact on affected units of Government of the cost of treatment facilities, and a comprehensive analysis of the national requirements for, and the cost of, treating waste to attain such water quality standards as are established pursuant to the Federal Water Pollution Control Act or applicable law.

Section 210 of the conference report authorizes the Secretary of the Interior to make a full and complete investigation and study of methods for providing incentives to assist in constructing facilities and works by industry to reduce or abate water pollution, including possible use of tax incentives. In making this study he is required to consult with the Secretary of the Treasury as well as other department and agency heads. The report shall be submitted to Congress on this study not later than January 30, 1968.

It contains needed and necessary amendments to the Oil Pollution Act strengthening that section insofar as the spillage of oil from vessels in our Nation's waters are concerned and at the same time transfers this jurisdiction to the Secretary of the Interior.

The bill as agreed to by the House and Senate conferees contains a "Clean Waters Restoration" title. This is the same title as suggested by the administration except that the word "rivers" was changed to "waters" to provide for those towns and cities which might lie on the coastlines of the oceans, the gulf, and the Great Lakes, which might not normally be considered to be within a specific river basin.

The conferees adopted the principles contained in the administration bill which provided for the development of a comprehensive pollution control and abatement plan for a basin, coastal area, estuary, inlet, and so forth. It includes those provisions contemplated in the administration proposal whereby the comprehensive plan would be consistent with any applicable water quality standards; would recommend such works as would provide the most effective means of treatment; recommends both municipal and industrial use of such works; would recommend maintenance and improvements of water quality standards within the basin and methods of adequately financing these facilities.

To achieve the development of a comprehensive water pollution control and abatement plan for a basin, coastal area, the Secretary could assist if requested by a Governor or Governors in the financing of the administrative expenses of the States of the development of such a plan up to a total of 50 percent of the cost of these expenses for a planning agency for a period not to exceed 3 years. This will, of course, encourage the Governors of the various States affected to do their utmost to assist in the development of comprehensive plans for clean waters. In this sense the establishment of clean waters is the end goal of both the administration concept and the bill as agreed upon by the conferees.

Finally let me point out the following. It is the intention of the conferees that the existing contract authority which is now available to the Secretary of the Interior in various sections of the law dealing with research in the fields of water pollution should be continued.

Section 5 of the Federal Water Pollution Control Act presently gives the Secretary a very broad authority in conducting research for various purposes, including but not limited to, research on separate and combined sewers, on advanced waste treatment, and on industrial wastes. He is authorized to conduct this research directly and by grant, contract, agreement or otherwise, with public and private authorities, agencies and institutions as well as individuals. This authority, particularly as to conducting research by contract, encompasses authority to conduct research for which grants are specifically authorized in section 6, and the $20 million per fiscal year which is authorized in section 6(e)(1) is by the phrase "including contracts" in

that subsection made specifically available for the purpose of conducting this research by contract.

This is a worthwhile conference report. I urge the adoption of the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida.

Mr. CRAMER. Mr. Speaker, I want to thank the gentleman.

I too think that this is one of the most significant pieces of legislation that has been brought before the House in recent years in relation to cleaning up the streams throughout America. I think the tools are here along with the Water Pollution Control Act of 1965 for eventually cleaning up all of the streams in this Nation. I think tremendous headway legislatively is being made, and this bill will provide the needed incentive to the States to participate in the program, which has been an objective of many members of the committee for some time to provide an incentive to the local communities to build treatment plants and the States to come in with matching State funds.

This is a concept that I think will result in a true partnership approach to this problem, Federal, State, and local governments. Only with all levels of government participating can the program be a success. This has been much needed for some time.

Mr. Speaker, I urge the adoption of this conference report on S. 2947, the Clean Waters Restoration Act of 1966, because I think it is a fair compromise between the House-passed and the Senate-passed versions of the legislation and because I sincerely feel that the House in many ways, if not in most, was able to retain the provisions of the legislation which it felt essential throughout the full and free discussions in the conference committee on this bill. I am confident that the provisions of S. 2947, as agreed upon by the conference committee, will improve and make more effective certain programs under the Federal Water Pollution Control Act, as amended.

BASINWIDE PLANNING PROVISIONS

Mr. Speaker, the section of the conference substitute which provides for the establishment of basinwide planning agencies is a substantial improvement over the proposal made earlier this year by the administration.

Section 101 of title I of the proposed substitute amends section 3 of the Federal Water Pollution Control Act by adding a new subsection (c) which requires the Secretary of the Interior to make a grant to pay up to 50 percent of the administrative expenses of a basinwide planning agency for a period of 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 if it is capable of developing an effective, comprehensive water quality control and abatement plan for the basin. This grant is to be made only upon the request of the Governor of a State or a majority of the Governors when more than one State is involved.

Mr. Speaker, I feel that this is in keeping with the intent of the House that the State and local bodies not only should but must be brought into the water pollution control program to the fullest extent if the nationwide effort is to be successful. Unfortunately, the other body has not always sought to bring non-Federal entities fully into the water pollution control and abatement program. The House position was further upheld by retaining provisions that the grant is to be made only, and I repeat only, upon the request of the Governor of a State or a majority of the Governors when more than one State is involved.

RESEARCH AND DEVELOPMENT

Mr. Speaker, the conferees were able to agree upon provisions expanding the research and development authority of the existing law. The intent of the House that industries should be brought into

the research and development program under the Federal act has been retained.

The conference substitute amends section 6 of the Federal Water Pollution Control Act to authorize the Secretary to make grants to States, municipalities, or intermunicipal or interstate agencies for the purpose of assisting in developing projects to demonstrate new or improved methods of controlling the dis-

[p. 27138]

charge of untreated or inadequately treated sewage of other wastes from sewers carrying storm water or both storm water and sewage or other wastes. The conference substitute also authorizes the Secretary to make grants to those entities to assist in developing projects to demonstrate advanced waste treatment and water purification methods, including temporary use of new or improved chemical additives, or new or improved methods of joint treatment systems for municipal and industrial wastes and to make grants for the purpose of reports, plans, and specifications in connection therewith.

These grants are subject to limitations that the project must have been approved by the appropriate State water pollution control agencies and the Secretary, that no grant shall be made in an amount exceeding 75 percent of the estimated reasonable cost of the project, and that no grant shall be made for a project unless it will serve as a useful demonstration for the purposes set forth in this section.

The conference substitute subsection (b) of the proposed new section 6 brings into focus the industrial problems associated with water pollution control by authorizing the Secretary to make grants for research and demonstration projects for prevention of pollution of water by industry including the treating of industrial waste. These grants shall be subject to limitations that no grant shall be made in excess of $1 million, that no grant shall be made for more than 70 percent of the cost of the project, and that no grant shall be made for any project unless it will serve a useful purpose in developing or demonstrating a new or improved method of treating industrial wastes or otherwise preventing pollution by industry, which method must have industrywide application. The provisions of this portion of the conference substitute are almost identical to the House-passed version, and they clearly reflect the intent of the House that the industries be brought into the research and development program to such an extent that there will be positive results in the near future.

Section 5 of the Federal Water Pollution Control Act presently gives the Secretary a very broad authority in conducting research for various purposes, including but not limited to, research on separate and combined sewers, on advanced waste treatment, and on industrial wastes. He is authorized to conduct this research directly and by grant, contract, agreement, or otherwise, with public and private authorities, agencies, and institutions as well as individuals. This authority, particularly as to conducting research by contract, encompasses authority to conduct research for which grants are specifically authorized in section 6, and the $20 million per fiscal year which is authorized in section 6(e)(1) is by the phrase "including contracts" in that subsection made specifically available for the purpose of conducting this research by contract.

I think that each Member can clearly ascertain that the House position that additional research and development is needed in this field, that the industries should be brought into the research program, and that these research and development efforts should contribute toward the control of water pollution in as effective a way as possible has been upheld.

GRANTS FOR THE CONSTRUCTION OF SEWAGE TREATMENT WORKS

Mr. Speaker, the figures which the conference committee agreed upon with respect to authorizations for appropria-

tions for the construction of sewage treatment works and other water pollution control programs are not those which the House passed. However, they are far below the Senate-passed authorization levels.

I personally think, and I believe the record bears me out on this, that the authorization levels agreed upon by the conference committee may prove to be too high; however, in light of other provisions retained in the bill and the studies and cost estimate required, and with a view toward reaching an agreement in conference so that the bill could be reported out and acted upon by both Houses, the Senate figures are palatable, and we should not vote down this conference report on the basis of those figures being higher than the House figures and in excess of the proven needs according to the House hearings.

The cost estimate which is required to be submitted to the Congress by the Secretary of the Interior not later than July 1, 1967, should give the Congress a detailed presentation of the actual needs for authorizations for construction grants for treatment works, and appropriate adjustments can be made in the authorizations next Congress.

RETENTION OF STATE MATCHING

Mr. Speaker, the minority members of the Committee on Public Works have advocated, since 1959 that the States be brought into the effort to meet the financial burden of constructing necessary sewage treatment works. Last year's act, the Water Quality Act of 1965, made provision for waiving the dollar ceiling on grants for the construction of sewage treatment works, if the States match equally Federal grants from the additional authorization increase of $50 million per annum over the then ceiling of $100 million per annum. This was an outstanding achievement on the part of the minority and the House, but we felt that the procedure needed to be expanded to include all funds authorized for the construction program.

This year's act, as passed by the House, provided for increased Federal grants in those cases where the State agreed to contribute toward the cost of constructing all sewage treatment works financed out of Federal monies allocated to a State for a particular fiscal year. This was a great step forward. If this measure had been adopted when the minority members of the committee first officially proposed it in 1959, the overall national effort to control water pollution would be much further along now than it is. The total amount contributed toward the cost of constructing sewage treatment works by all levels of government would have been accelerated, and, thereby, the construction program would have moved ahead much more rapidly.

This past March, I introduced a bill to provide for the reimbursement to States, municipalities, intermunicipal, and interstate agencies by the Federal Government for the construction of sewage treatment works where those agencies wanted to construct such works in advance of the availability of Federal participating funds. This had nationwide application, whereas many similar proposals were limited entirely to reimbursement where the States had bonded themselves to meet the extra cost of constructing these works. The text of my bill was passed by the House as a section of this bill. The conference substitute carries out the concept of Federal reimbursement, and I think this is another step forward of which the House can be proud. Such claims for reimbursement, however, are not claims against the Treasury, unless approved by the State agency, the Secretary and the funds must be appropriated.

Mr. Speaker, the House conferees have upheld the House's position on this bill to the best of their ability and to the extent that an agreement could be reached to permit final action on the bill. While the authorizations are too high, in my opinion, the cost estimate should make it possible for the Congress to take whatever steps might be necessary in the

future to properly adjust the conference substitute figures.

I urge the adoption of this conference report.

This is a most significant conference report and bill that we have before us. I wholeheartedly support it as does the gentleman from Minnesota and I congratulate the conferees for a difficult, long 3-week conference and finally coming to a successful conclusion which I think is in the best interest of the country.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman from New Hampshire, a member of the committee.

Mr. CLEVELAND. Mr. Speaker, I have asked for this time simply to inquire with reference to and to make clear that the 10-percent incentive which we wrote into the bill in the Committee on Public Works is still in the bill.

This is a matter of particular interest to me and we discussed this when the bill was being considered on the floor of the House. I just want to be sure that this 10-percent incentive feature is still in the bill as it comes to us from the conference.

Mr. BLATNIK. The gentleman is referring to the 10 percent for State participation in the cost of the project; is that what the gentleman is referring to?

Mr. CLEVELAND. I am referring to the 10-percent incentive provision that goes to those States that are contributing at least 30 percent as New Hampshire does, in fact, New Hampshire contributes 40 percent.

Mr. BLATNIK. That is what I meant—that is to the States that are participating. Yes; it is still in the bill.

[p. 27139]

Mr. CLEVELAND. That is still in the bill?

Mr. BLATNIK. Yes, sir.

Mr. CLEVELAND. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. CLEVELAND. Mr. Speaker, I would like to commend the leadership of the House Public Works Committee and their entire staff for their excellent work in writing the Water Pollution Control Act of 1966. Needless to say, I am pleased that I was able to make a contribution to the drafting of this legislation—particularly in connection with the 10-percent incentive bonus for States. In the future, we will have to devise incentives for industry to more fully join the battle. Probably the best way would be through the tax-credit route, which, unfortunately, is not under the jurisdiction of our committee.

Mr. Speaker, as has been frequently stated, this is a matter of broad national interest. Just today I received from my district office a letter from Edward S. LeBlanc, city clerk of Nashua, N.H., enclosing a resolution passed by the board of aldermen and approved by my friend, Mayor Dennis J. Sullivan. This resolution is so timely that I enclosed it at this point in the RECORD, as it points up the widespread public interest and support for our continuing battle against water pollution.

RESOLUTION ENDORSING PROJECT PURE WATER, CITY OF NASHUA

In the Year of Our Lord One Thousand Nine Hundred and Sixty-six.

Resolved, By the Board of Aldermen of the City of Nashua, That the City of Nashua endorse Project Purewater and its drive to abate pollution of the Nashua and Merrimack Rivers, and to clear out the pollution and impurities which now are allowed to be discharged into them

And that whereas the Federal Government has seen fit to enact a public law designed to enhance the purity of waters and to abate the pollution of our waters, it is urged that the proper authorities of our State Government take immediate action to put into execution the said law so that the State may avail itself of any and all funds provided by the Federal Government under said law for the purpose of abating pollution in our interstate waterways.

Mr. BLATNIK. Mr. Speaker, I yield to the gentleman from Alabama [Mr. JONES] who has played a major role in this legislation from its inception 10 years ago.

Mr. JONES of Alabama. Mr. Speaker, I want to add my support to the conference report on S. 2947, the water pollution control bill of 1966. The distinguished gentleman from Minnesota [Mr. BLATNIK] who has presided over the deliberations in the committee and in conference, and who has managed the bill on the floor is to be commended for the energy and dedication which he has given to this legislation.

As I am sure the Members know, Mr. BLATNIK has been considered the father of the water pollution program in the House of Representatives from the day that the first authorization for appropriations was made in 1956. Since that time he has been at hand whenever he was needed to introduce and to secure the passage of necessary amendatory legislation. Last year the Water Quality Control Act of 1965, with which he is credited, represents the most substantial monetary step ever made in this field. Today I am proud to see that this bill takes a major step in the provision of construction grants for this problem which has grown so tremendously in magnitude. It will provide approximately $3½ billion for construction grants for sewage treatment works, which is many times in excess of the grants previously authorized. It will also remove the dollar limitations on the smaller projects, thereby permitting the larger towns and cities to receive grants which will be of some significance in their financing of sewage treatment works. It will broaden and at the same time focus activities devoted to research and development which are badly needed to solve the many problems in this field.

I think that Mr. BLATNIK deserves a great deal of credit, since he more than anyone else has been the architect of this very worthwhile and much needed legislation.

Mr. Speaker, I would also like to call attention at this point to one of the strongest members of our committee in the field of water pollution, Congressman JIM WRIGHT, of Texas. He has been actively interested in pollution control since he has been in Congress and has been of great assistance to the committee in solving the many complex problems that have come before us in this exceedingly complex field. As a member of the Committee on Government Operations on which I also serve he has had the advantage of becoming familiar with the problems of water pollution control and abatement on both that committee and the Public Works Committee. Therefore, I am taking this opportunity to commend him for his dedication to this most important activity.

I also want to pay tribute at this time, Mr. Speaker, to Congressman ROBERT MCCLORY, of Illinois, who as a former member of the House Committee on Government Operations has been so helpful in supplying information to the committee that has been of great value in its deliberations on the subject of water pollution.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman.

Mr. McCLORY. Mr. Speaker, I am pleased to give my support to the conference report on the Clean Waters Restoration Act of 1966 (S. 2947).

The diligent work of the House and Senate conferees reflects the many contributions of time and effort which have been made by National, State, local, and civic leaders—all of whom are concerned about the pollution of our Nation's waters.

I am proud to note a number of provisions consistent with various recommendations made by the Subcommittee on Natural Resources of the House Committee on Government Operations. I had the privilege of serving for 2 years on this subcommittee under the chairmanship of the distinguished gentleman

from Alabama [Mr. JONES]. The Jones subcommittee conducted a thorough study into all types of water pollution in various sections of the country.

The conference committee report reconciles the differences between the House and Senate versions for augmenting the attack against water pollution. Under the bill, the Federal Government commits $3½ billion of its funds. In addition, States and local governments receive substantial encouragement to contribute to this solution of pollution problems.

The conference committee report reenacts the Oil Pollution Control Act with certain amendments along lines recommended by the Jones committee.

The conferees have also given support to a bill which several of my colleagues and I introduced earlier in the session to encourage industry to solve its pollution problems. My bill (H.R. 17253) would provide tax incentives to industries which provide water pollution facilities. As the conference committee report recites the Secretary of the Interior shall "make a full and complete study of methods for providing incentives to assist in constructing facilities and works by industry to reduce or abate water pollution, including possible use of tax incentives."

I am pleased that this study will be made, and I feel confident that it will support tax incentives as an appropriate part of a nationwide attack on water pollution.

Mr. Speaker, the conference report represents a great forward step in combating water pollution. I am proud to give this landmark legislation my full support.

Mr. MATTHEWS. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. KLUCZYNSKI] may extend his remarks at his point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. KLUCZYNSKI. Mr. Speaker, the Clean Waters Restoration Act which is before us in the conference report is an outstanding example of what the House and the Senate, working together to create legislation that will be of lasting and substantial benefit to all the people, can accomplish.

This legislation, based on the more than 10 years' experience since the Federal Government actively assumed its responsibility to provide both leadership and funds in the effort to bring an end to pollution of our water resources and to restore the already polluted waters, probably marks the first time that anything approaching a sufficient amount of money has been authorized for either treatment facilities or much-needed research.

This legislation is a benchmark, not only because it at last recognizes the tremendous financial commitment that pollution control and abatement require,

[p. 27140]

but because it recognizes that our cities and States must be given every possible encouragement and assistance in meeting their part of the obligation in this program. This legislation can substantially alleviate the difficulties the larger cities have had in financing the construction of their treatment facilities at the same time providing for the small municipalities on small streams that also face serious pollution problems.

It was a privilege to have had the opportunity to serve on the conference from which this legislation developed. It would not be possible to exaggerate my respect for all the participants and particularly my admiration for Representative BOB JONES, of Alabama, and JOHN BLATNIK, of Minnesota, for the patience, wisdom, and vision with which they worked with this most critical of our resource problems.

Mrs. DWYER. Mr. Speaker, I am pleased to support the amendments to the Federal Water Pollution Control Act as embodied in the conference report on H.R. 16076.

If this is a compromise, Mr. Speaker, then it is a good one.

The conference report does not purport to do the whole job, but the clean rivers restoration program passed as a new title to the Federal Water Pollution Control Act is another step along the right road.

Requiring the combined efforts of all levels of government and assuring an expanded role for industry in solving the problem, the report authorizes $3.6 billion over the next 5 years to help States and localities build sewage treatment plants for the Nation's water resources that have for so long been neglected.

Further, the conference report eliminates the ceiling of $1.2 million per project which will permit larger cities and their suburbs, where the need is great, to become eligible for grants up to 30 percent of project cost.

The water pollution abatement program is now on its way. The stake which America has in its river basins, every one of which is so badly polluted, warrants this effort, Mr. Speaker, and more.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken.

Mr. CRAMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 247, nays 0, not voting 185, as follows:

* * * * *

[p. 27141]

CLEAN WATERS RESTORATION ACT OF 1966—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2947) to amend the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such act. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MUSKIE. Mr. President, the Senate has before it today the Conference Report on the Federal Water Pollution Control Act Amendments of 1966, including the Clean Rivers Restoration Act.

The Senate version of this legislation, passed on July 13 by a vote of 90–0, included, among other things, a 5-year, $6 billion authorization for the Federal share of the cost of construction of sewage treatment works. I am disappointed to announce that we were unable to hold that figure in conference. In order to reach an agreement, the Senate accepted a 4-year, $3.4 billion total. This is a decrease of approximately $2.5 billion from the Senate bill, however, $1.5 billion of that difference was absorbed by cutting back the authorization for 1 year.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a chart which shows the differences between the Senate and the House passed bills and the compromise reached:

Fiscal year	House	Senate	Conference
1967	150	150	150
1968	300	600	450
1969	400	1,000	700
1970	650	1,250	1,000
1971	950	1,500	1,250

It is important to note that neither the House nor the Senate increased the

existing authorization for 1967 and, thus, no damage was done to the President's budget.

The House and Senate split the difference in the first 2 years of the new authorization but the conference amount for the final 2 years indicates an increase by the House of $350 million and $300 million, respectively, while the Senate decreased only $250 million for each year.

Mr. President, there was general recognition throughout the conference that the $1.5 billion level authorized by the Senate for 1971 and 1972 was realistic. It, therefore, must be our next task to increase the authorization to this more realistic level. The $6 billion authorized by the Senate was passed on the assumption that, first, the Federal share should be at least 30 percent of the total cost of treatment facilities with no dollar limitation and, second, that in order to provide secondary treatment for 80 percent of the population and advanced waste treatment to approximately 20 percent of the population, $20 billion would be required. I ask unanimous consent to have printed in the RECORD at this point a memorandum which shows how the Senate arrived at that estimate.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U S. SENATE,
COMMITTEE ON PUBLIC WORKS,
October 5, 1966.

MEMORANDUM

To: Senator MUSKIE.
From. Leon G. Billings.
Subject: Justification of $20 billion cost estimate.

CONFERENCE OF SANITARY ENGINEERS SURVEY

The survey of State pollution control agencies conducted by the Committee, 48 responses to which were received, indicates that less than 10 States confirmed the data made available by the Conference of State Sanitary Engineers Two of those States, Oregon and Rhode Island, indicated costs less than estimated by the Sanitary Engineers The remaining 38 States provided estimates ranging from a slight difference to a difference of as much as 80 times the Conference estimate The following list is indicative:

(In thousands of dollars)

	Conference of State sanitary engineers estimate	Committee survey data
Connecticut	$ 39,931	$ 200,000
Indiana	61,528	250,000
Maryland	11,860	127,900
Massachusetts	41,557	300,000
Michigan	5,596	430,409
Minnesota	65,648	215,648
New Jersey	86,054	450,000
New York	820,321	1,708,000
Ohio	38,626	1,000,000

It is therefore obvious that either the Conference of State Sanitary Engineers does not use the information made available to them or determines its projected cost on a different basis than the Committee considered in its Steps Toward Clean Water when it arrived at a $20 billion cost estimate. The Steps Toward Clean Water estimate is based on certain assumptions, the first being that 80% of the 1975 population will require secondary treatment, the remaining 20% will require tertiary treatment.

Because the statistical life of a secondary treatment facility is 20 years, it must be assumed further that projects constructed between now and 1972 must be designed to provide for at least a 1980 population. The census estimates that the population in the United States in 1980 will be approximately 250 million. If we provide secondary treatment for 80% of that population, this will equal 200 million. It is assumed now that 61 million people have secondary treatment and that by 1972 50% of this secondary treatment will have to be replaced. Therefore, between now and 1972, secondary treatment must be provided for 170 million people.

The per capita construction cost of sewage treatment facilities, associated interceptors and other appurtenances, is approximately $100 per person This will increase as construction costs increase over the six year period; but without assuming any change in construction cost past August of 1966, the cost for secondary treatment for 170 million people will be about $16½ billion. Assuming that 20% of the population must be served by advance waste treatment by 1972, such facilities must be provided for 50 million people. The best available estimate of per capita cost is $75 00 This would increase the cost $3.75 billion, bringing total to $20 25 billion In order that these facilities be available for the 1980 population, and that the associated economies of scale be taken

advantage of, this investment must be made now, water quality notwithstanding.

The Committee Survey of Cities produced a number of interesting results In several instances where the Committee Survey of States data confirmed estimates of the Conference of State Sanitary Engineers, the city responses debunked both these figures. The two most surprising examples are Illinois and Wisconsin. The State confirmed the Sanitary Engineers estimate but failed to note, in the instance of Illinois, that Chicago costs were not included. While the State of Illinois confirmed estimate is $54 million, Chicago has an estimate of $702 million.

Wisconsin confirmed the Sanitary Engineers estimate of $40 million but noted that Milwaukee was not included in this estimate. The city of Milwaukee estimates its cost at $246 million.

Other city reports manifested similar disagreements with the States. In Florida for example, the State estimate is $54 million. The city of Miami alone estimates its costs at $130 million. The city of Jacksonville estimates its cost at $59 million or $5 million in excess of the total State figure.

The State of New Mexico confirmed an estimate of $5½ million while the city of Albuquerque cited its cost at over $18½ million.

The State of Missouri confirmed an estimate of slightly over $28 million while the city of St. Louis cited needs in excess of $116 million and Kansas City of nearly $48.5 million.

Finally, the State of Washington confirmed a figure of $28 million but noted that the estimate submitted to the Conference of State Sanitary Engineers did not include $78 million for interceptor sewers. The city of Seattle reported that its needs alone would exceed $98 million.

The data accumulated by the Committee in its two surveys tends to confirm the estimate of per capita cost referred to in the above analysis of the $20 billion figure. The following table is for that purpose:

[Per capita cost]

City:	
Hartford, Conn.	$ 528.22
New Haven, Conn.	122 66
Miami, Fla.	446.73
(Dade County estimate	1,069.51)

[p. 27244]

[Per capita cost]

City:	
Jacksonville, Fla	294 68
(Duval County estimate	130.18)
Atlanta, Ga	156 47
Chicago, Ill.	113.54
(Cook County estimate	188 86)
Kansas City, Kans.	182.94
Detroit, Mich.	103.15
Jackson, Miss.	159.25
St. Louis, Mo.	154.99
Kansas City, Mo.	101.96
Omaha, Nebr.	97.66
Albuquerque, N. Mex.	92.51
Rochester, N.Y.	127.42
Syracuse, N.Y.	93.17
Albany, N.Y.	
(Albany County estimate	280.29)
Charlotte, N.C.	146.05
Greensboro, N C.	108.21
Cincinnati, Ohio	216.69
Oklahoma City, Okla.	171.16
Providence, R.I	[1] 226.50
Seattle, Wash.	176.65
(King County estimate	105.23)
Milwaukee, Wis.	344.45
(Milwaukee County estimate	237.50)

[1] Includes separation of storm and sanitary sewers.

While there were no cities in Maine polled, the estimate per capita cost for the State as a whole is $129 35 The average per capita cost in Ohio is $103.02 and in New York, $101.78. These figures from three States which have inventoried their water pollution control needs indicate that, if anything, the estimate by the Committee that $20 billion will be required is extremely conservative. If and when we get to the question of authorization for storm and sanitary sewer separation, these costs can be expected to skyrocket and, when increased funds become available, other States are going to begin adequately inventorying their needs.

The final point, and I think it is an important point, is that of the existing allocation formula, the States are limited in the amount they can receive from whatever amount we authorize. Some States are ready to go ahead. Massachusetts, Wisconsin, New York and Maine have authorized 30% matching programs. Connecticut and Ohio will soon follow. The costs these States are confronted with are tremendous and they will need the full allocation available from a $6 billion authorization if they are to receive even 30% Federal matching funds.

LEON G. BILLINGS.

Mr. MUSKIE. This estimate of $20 billion, confirmed by a recently completed committee survey of States and major cities, shall continue to guide the efforts of the Subcommittee on Air and Water Pollution.

There are several other disappointing aspects the conference agreement which I would like to discuss before outlining the positive accomplishments of the legislation.

The Senate-passed measure had a loan

provision which provided funds for those communities unable to obtain their share of construction costs from other sources, this provision was deleted.

The Senate bill provided that, in connection with any enforcement conference, the Secretary could require reports from alleged polluters in order that the conference could have more adequate information on which to base pollution control recommendations. This provision was modified to the extent that the information can now only be required if a majority of the conferees request it. In essence, this means that the information will not be available before a conference but must await a positive action by the conferees.

The Senate provided an automatic incentive of 10 percent of the total cost of any treatment facilities constructed in metropolitan areas which practice regional planning. This provision was deleted.

Finally, the Senate provided strengthening amendments to the Oil Pollution Act. The Senate amendments would have extended the scope of that act to shore installations and terminal facilities and provided that boats, vessels, shore installations, and terminal facilities depositing oil on coastal, navigable and interstate waters and adjoining shorelines would be responsible for the removal of that oil. The legislation reported from conference limits this removal feature to boats and vessles by eliminating application of the Oil Pollution Act to shore installations and terminal facilities. However, the Senate conferees were assured that both shore installations and terminal facilities were subject to the enforcement provisions of the Federal Water Pollution Control Act.

The net effect of the amendments to the Oil Pollution Act, strictly enforced, will be first, the extension of its enforcement provision to all navigable waters of the United States; second, a method of requiring removal or payment of the cost of removal of oil deposited on navigable waters; and third, a protection for the adjoining shorelines against the grossly negligent spillage of oil which has deleteriously affected both the recreational values of these shorelines and has seriously damaged coastal fisheries.

The Senate also receded from its amendments to the Refuse Act of 1899 which provided for the Secretary of the Interior to determine whether deposits of refuse in navigable waters should be consistent with the purposes of the Federal Water Pollution Control Act. It is the position of the Senate conferees that mere amendment of this legislation would not be satisfactory, that review of the existing law is essential.

Mr. President, the bill before the Senate today establishes a landmark in the Federal water pollution control effort. Beginning next year there will be no discrimination against major cities in the construction grants program. The House receded from its position that there should be dollar limitations applied to the construction grant program. When this year's amendments become effective and funds are made available, every municipality will be able to receive a maximum 30-percent Federal grant regardless of the total cost. This means that the big cities which have the worst problems will have an equitable share of the Federal water pollution control dollar.

The conferees also agreed that there should be an incentive for those States willing to provide 30 percent of the project's cost and, therefore, the conferees agreed to increase the Federal share in that instance to 40 percent. Further, if the States agree to provide 25 percent of the project's cost, and have established enforcible water quality standards for the waters into which the project discharges, the Federal Government will provide 50 percent of the cost of a project.

This 30-40-50 Federal share approach, without dollar limitations, commits the Federal Government to increasing the Federal investment in water pollution control. It means that if the Federal

Government is to meet its responsibility to the States and their local governments, the $6 billion figure initially authorized by the Senate will have to be substantially increased.

Parenthetically, Mr. President, there was no change in the provision in existing law which provides an incentive of 10 percent of the Federal grant in those metropolitan areas practicing regional planning. In essence, this means that metropolitan areas may receive up to 33 percent, 44 percent, and 55 percent if they comprehensively plan together.

Mr. President, there are a number of other provisions to which the conference agreed which I would like to summarize:

The Secretary of the Interior is authorized to carry out a study of the Nation's estuarine areas and $3 million is provided for this purose. This provision was initially authored by Senator TYDINGS of Maryland.

The conferees agreed to include both the Cooper and the Kennedy of Massachusetts amendments relating to pollution control personnel requirements.

The conferees agreed to provide a method to deal with the problems of pollution across international boundaries

The conferees agreed to the necessity of a comprehensive study of the cost of pollution control.

The conferees also agreed that there was a necessity to study the problems of pollution created by the recreational watercraft and of the need for a study of incentives to assist industrial pollution control.

The conferees reached agreement on an expanded program for research and development. A total of $305 million was authorized for a 3-year period for demonstration of industrial waste treatment methods, advanced waste treatment, joint municipal and industrial treatment, and other pollution control technicalities. Included in that $305 million is a limitation of $125 million on the general research activities of the Federal Pollution Control Administration.

Section 5 of the Federal Water Pollution Control Act presently gives the Secretary a very broad authority in conducting research for various purposes, including but not limited to, research on separate and combined sewers, on advanced waste treatment, and on industrial wastes. He is authorized to conduct this research, directly and by grant, contract, agreement, or otherwise, with public and private authorities, agencies, and institutions as well as individuals. This authority, particularly as to conducting research by contract, encompasses authority to conduct research for which grants are specifically authorized in section 6, and the $20 million per fiscal year which is authorized in section 6(e)(1) is by the phrase "including contracts" in that subsection made specifically

[p. 27245]

available for the purpose of conducting this research by contract.

Finally, Mr. President, the conferees agreed to expand the enforcement provisions of the existing law. Previously I referred to the compromise reached on reports from alleged polluters at the conference stage. The Senate accepted House language which allows the Secretary to require such reports from alleged polluters in the hearing stage of an enforcement proceeding. The most significant change in the enforcement procedure will be, especially to the conservationists, the provision that persons affected by pollution can make a statement to both the enforcement conference and the hearing. The legislation before you also provides that alleged polluters may have an opportunity to make a full statement of views at these two levels of the enforcement procedure. It is not the intent of the conferees that this become a means whereby the enforcement procedure may be delayed. In fact, it is the intent of the conferees that the chairman of the conference or the hearing board my require any statements to be filed rather than given orally.

Mr. President, there is only one re-

maining provision in the conference bill that I would like to discuss.

Earlier this year the President asked for a method whereby entire river basins could be cleaned up. In order to carry out this purpose, he transmitted to the Congress the Clean Rivers Restoration Act of 1966. Both the House and Senate bills contained specific titles to carry out the purposes expressed by the President's legislation. However, the approach in each bill was entirely different.

The conferees agreed that the basic purpose and intent of the President's proposal could be carried out by amending the existing comprehensive planning section of the Federal Water Pollution Control Act. A compromise was reached whereby States in a basin may join together for the purpose of planning for pollution control and should they desire to do so, the Federal Government will pay 50 percent of the expenses of the designated planning agency. This provision for comprehensive planning, combined with the 50-percent Federal grant for construction of treatment works if the States set intrastate as well as interstate water quality standards, more than accomplishes the objectives of the administration.

Mr. RANDOLPH. If the Senator will yield, I would like to pose a question.

Mr. MUSKIE. I am happy to yield to the distinguished chairman of the Public Works Committee who has provided tireless leadership in achieving passage of this landmark legislation which we are considering today.

Mr. RANDOLPH. It is my understanding that the compromise Clean Waters section of S. 2947 provides the means for more effectively implementing the Water Quality Act of 1965. Am I correct in this and, that the Senate's position is that the comprehensive planning—river basin approach is fundamental to any water quality standards program? Further, is it not true that the Secretary of the Interior has sufficient authority under sections 3 and 10 of the act as amended by this bill to develop or assist the development of realistic comprehensive basin plans for any hydrologic unit in the United States?

Mr. MUSKIE. The Senator is quite correct in his understanding of the legislation before us. I have said time and again that the Water Quality Act of 1965 required a river basin type approach if adequate water quality standards are to be effectuated. With the tools provided by these amendments to the comprehensive planning section, which provides for development of comprehensive programs, the intrastate standards requirement for a 50-percent grant, and the extensive authority granted under last year's act, the administration, if it is vigorous and dedicated to pollution control, can achieve all that it intended in the President's proposed clean rivers restoration program.

POLLUTION CONTROL REQUIRES BOLD STEPS

Mr. YARBOROUGH. Mr. President, the Senate has taken another step forward toward the control of pollution of our Nation's water supplies with passage today of the conference report on S. 2947.

Although the bill's provisions are not as extensive as I should like to see enacted, significant improvements are included in the legislation with the clean rivers restoration program and the incentives offered for the States to join in a comprehensive river basin pollution control and abatement plan.

Current Federal grants to States for help in financing their own programs, from $5 million annually to $10 million, are provided. This doubling of assistance for research should encourage strong action by the States in moving to clean up the contamination of our water before we strangle in our own filth.

Even bolder action will be needed if we are to win this battle. The problem of correcting and preventing pollution is staggering, but we cannot continue to foul our waters and destroy our land.

The substantial increase in grant pro-

grams for pollution control is commendable, but it still falls short of the goals passed unanimously earlier by the Senate. We must do more in the future if the music of our streams is to be a pure melody, and not a funeral dirge.

Mr. KUCHEL. I ask unanimous consent to have printed in the RECORD at this point a statement prepared by my colleague, Senator COOPER.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR COOPER

I support the Conference report on S. 2947 and urge its adoption by the Senate.

The bill authorizes Federal water pollution control programs totalling approximately $3.5 billion over the next 5 years. This new authorization represents a substantial increase from the $150 million now authorized for fiscal 1967 to $450 million in fiscal 1968 and increasing to $1.25 billion in 1971, although substantially below the $6.4 billion authorized by the Senate. Besides lifting the dollar limitations on individual sewage treatment projects, the bill recommended by the conferees provides incentives for state-matching grants and accelerated application of water quality standards. It authorizes reimbursement for local communities that have taken the incentive on qualified projects and encourages joint industrial municipal waste-treatment systems.

As a member of the Public Works Committee, I would like to pay my respects to the distinguished Senator from Maine [Mr. MUSKIE], Chairman of the Subcommittee on Air and Water Pollution, and to the ranking minority member of the subcommittee, the able Senator from Delaware [Mr. BOGGS], for the leadership they have given this bill and to the entire committee who have worked hard and conscientiously on it.

It has been my view that we must do more to increase the participation of private industry in assisting to combat and control water pollution. Conservative estimates of the total cost for controlling industrial pollution have been placed at $75 billion over the next 15 years, or the large sum of $5 billion per year. At the base of this estimate rests the progressively increased use of water by industry. In 1900, the average daily use of water for industrial purposes was $15 billion gallons, but by 1960 industry was employing some 160 billion gallons per day. The amount of money required for installations to control pollution in just two industries alone—the paper and chemical industries—is indeed staggering.

When the Air and Water Pollution Subcommittee of the Public Works Committee announced that it would hold hearings in April and May of this year to consider amendments to the Federal Water Pollution Control Act, I wrote representatives of private industry who where scheduled to testify and pointed out that, although the Public Works Committee is without jurisdiction in fiscal matters, I thought it would be helpful to the Committee to have comments and viewpoints of industry on needed tax incentives. As a result of their testimony and the substantial interest created among the committee members, the Public Works Committee, in reporting out its bill, included a strong recommendation to the Committee on Finance to consider tax legislation applicable to the acquisition and installation of pollution control facilities. The pertinent section of the report of the Senate Public Works Committee reads as follows:

INCENTIVE ASSISTANCE FOR INDUSTRIES

"A number of witnesses testified on the need for tax incentives as a means of reducing the cost of noneconomic pollution control facilities. This is not a matter over which the Senate Public Works Committee has jurisdiction but it affects the overall effort to meet water pollution control and abatement needs. This committee strongly recommends that the appropriate congressional committee give consideration to tax relief proposals for industrial pollution control activities.

"For the most part, pollution control does not provide a return on an investment to an industry. Installation of pollution control devices is costly and, in many cases, nonremunerative. The billion dollars of capital investment which will have to be made by the industrial sector for the benefit of the entire society will place a substantial burden on corporate resources, and ultimately on the general public. The committee suggests that there are several alternative methods of aiding industry in meeting its pollution control obligations.

"Investment tax credits as proposed by Senator JOHN SHERMAN COOPER of Kentucky in legislation cosponsored by the chairman of the Senate Public Works Committee Senator JENNINGS RANDOLPH of West Virginia is one method whereby industry could recoup the cost of control and abatement of pollution. Senator ABRAHAM RIBICOFF of Connecticut, in legislation cosponsored by among others, the chairman of the subcom-

[p. 27246]

mittee, Senator EDMUND S. MUSKIE of Maine, provides for accelerated amortization of the cost of pollution control facilities. This may also provide a means of offsetting industry's cost of pollution control. However, both of these methods do not consider the problem confronting those industries with plants hav-

ing great pollution problems and marginal economic efficiency.

"The committee has recommended greater emphasis on joint municipal-industrial treatment systems operated by public agencies. Such systems are eligible for assistance under the sewage treatment grant program.

"The proposal by the American Paper Institute for specific Federal grants to municipalities to construct industrial waste treatment facilities would provide an effective means of meeting the needs of both the marginal industries as well as the profitable industries. Such a Federal grant approach would not be inconsistent with public policy because the grant would, in effect, be made to a unit of government. This approach differs from that proposed by Senators COOPER and RIBICOFF and is a matter which can and will be considered by this committee. However, realizing that there is no final answer to the problem of financial industrial pollution control, the committee reiterates its strong recommendation that the appropriate committees consider tax relief legislation."

I would particularly like to draw attention to two amendments contained in the House bill which were agreed to by the Senate conferees and which I strongly support. Section 201 of the bill authorizes for the first time the Secretary of the Interior to make grants to industry for research in the prevention and treatment of water pollution. The need for expanded industrial research is discussed in detail in the House report at pages 25–26:

"INDUSTRIAL RESEARCH

"The reason for the addition of industrial grants is recognition of the fact that industry, which was at one time less of a polluter than municipalities and communities, has now become a major polluter. The complexity of some industrial waste problems requires the active involvement of industry itself which has intimate knowledge of manufacturing and other industrial processing operations. The stipulation that 70 percent of the cost of such investigations be borne by the Federal government should be an inducement to have industrial support and participation in the studies.

"The committee is not inclined to belabor industry for its growing contribution to this problem. Nothing will be gained by attempting to fix blame. The problem is here and it must be solved or some future generation will be worrying about clean oceans. The committee does feel, however, that more should be done by industry, and it is very pleased to note that during the hearings evidence was presented to show that industry is attempting to do its part.

"The Federal Government should do its part, too, in helping in the solution of this problem, certainly, in developing means for controlling it. The inclusion of specific grants to industry for research is based upon the same concept as in existing law for grants to public and private agencies and institutions for research in this field. It would be of little value if we solved the technical means of preventing or alleviating the sewage from municipalities and failed to lend necessary assistance to research for the disposal of waste emanating from the various types of industrial and manufacturing processes.

"Industrial research should not be limited to the technology of waste treatment. It should also include an investigation of possible financial methods of providing for this treatment, including methods of providing treatment works to the smaller industries on an installment basis. If a small company is faced with the necessity of putting in extensive treatment works as a result of Federal and State laws or public pressure, such financing could be helpful."

Another provision of the House bill adopted by the conferees requires the Secretary of the Interior to make a full and complete investigation and study of methods for providing incentives to assist in constructing facilities and works by industry to reduce or abate water pollution, including possible use of tax incentives and to report to the Congress by January 30, 1968.

I believe that these two provisions of the bill will enlist a greater participation of industry in Federal programs designed to abate or control industrial pollution.

When the Senate Finance Committee held hearings on H.R. 17607, a bill that would temporarily suspend investment credit and accelerated depreciation, I submitted a statement and urged the Committee to continue the availability of the present 7% investment credit for the acquisition of air and water pollution control facilities. This provision had been included in the House bill as a floor amendment.

In my testimony I said, "I am hopeful that when the present inflationary pressures in our economy have subsided this Committee will consider increasing the present investment credit or provide additional tax incentives to industry to assist in the acquisition and installation of pollution controls. But for the present, however, I believe it would be a backward step for the Congress not to continue at least the present investment credit as provided in the House bill."

I am pleased to note that this provision was included in the bill recommended by the Finance Committee and passed by the Senate, and was commented on in the committee report in the following language:

5 Exemption of water and air pollution control facilities

"An amendment adopted on the floor of the

House specifies that water and air pollution control facilities are, under certain conditions, not to be considered suspension period property even though constructed or ordered during the suspension period. Thus, facilities of this nature will continue to remain eligible, for the investment credit

"The exception is provided in recognition of the importance of stimulating private industry to undertake expenditures for facilities which will help to abate water and air pollution. There is a clear need to step up efforts to purify the air we breathe and the water in our streams and lakes.

"Suspension of the credit, even for a short time, would discourage private efforts to abate water and air pollution and would simply impose a larger direct burden on the government

"This provision of the bill specifies that water and air pollution control facilities will not be treated as suspension period property if they are used primarily to control either water pollution or atmospheric pollution by removing, altering, or disposing of pollutants The facilities must conform to the State program or to State requirements in regard to the control of water or air pollution and they must be in compliance with the applicable regulations of Federal agencies and with the general policies of the United States, in cooperation with the States, for the prevention and abatement of water and air pollution Certification to this effect must be made by the State water or air pollution control agency, as defined in the Federal Water Pollution Control Act or the Clean Air Act. In addition, such a facility must be constructed or acquired in furtherance of Federal, State, or local standards for the control of water or air pollution."

A number of Members of the Senate have introduced bills which would amend the Internal Revenue Code so as to give a tax incentive to industry to construct air and water pollution control facilities. While many of these bills differ as to method, each has the purpose of providing industry with a financial incentive for acquiring and installing necessary equipment. On February 1 of this year, I introduced a bill, S. 2857, for myself and on behalf of Senator RANDOLPH, which would increase the investment credit allowable from the present 7 percent to 14 percent for those industries purchasing and installing air and water pollution facilities The bill is cosponsored by Senators ALLOTT, KUCHEL, LAUSCHE, LONG of Missouri, PEARSON, SALTONSTALL, SCOTT and JAVITS, and is pending before the Finance Committee.

I have gone to this great length to indicate the many steps that are being taken now by the Committees of the Congress to combat air and water pollution. I believe that this bill is another demonstration of the determined effort of the Congress to advance solutions to the most challenging problem facing our country today—pollution in the air and in the water.

Mr. MUSKIE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

[p. 27247]

1.2k THE WATER QUALITY IMPROVEMENT ACT OF 1970

April 3, 1970, P.L. 91-224, 84 Stat. 91

AN ACT To amend the Federal Water Pollution Control Act, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WATER QUALITY IMPROVEMENT

SEC. 101. This title may be cited as the "Water Quality Improvement Act of 1970".

SEC. 102. Existing sections 17 and 18 of the Federal Water Pollution Control Act, as amended, are hereby repealed. Section 19 of such Act is redesignated as section 27. Sections 11 through 16 of such Act are redesignated as sections 21 through 26, respectively. Such Act is further amended by inserting after section 10 the following new sections:

"CONTROL OF POLLUTION BY OIL

"SEC. 11. (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 from the water and shorelines or the taking of such other action 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;

[p. 91]

"(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.

"(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 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

[p. 92]

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 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 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 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;

"(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 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 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 welfare of the United States, including, but not

[p. 93]

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 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.

"(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.

"(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, 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 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 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

[p. 94]

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 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 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 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 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 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.

[p. 95]

"(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.

"(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 clauses.

"(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, (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.

"(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.

[p. 96]

"(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 instrumen-

talities 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 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, 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.

[p. 97]

"(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 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) The Secretary of Transportation, in consultation with the Secretaries of Interior, 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;

for the cost of removing discharged oil and paying all damages result-

ing 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 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; 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 substance from such vessel or facility, immediately notify the appropriate agency of the United States of such discharge.

[p. 98]

"(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 subsec-

tion (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—

"(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.

"(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 facilities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

"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, 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) 'manufacture' 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) 'discharges' 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 Secretary, 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 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

[p. 100]

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 Secretary, 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 Secretary 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) 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. Upon application by a State, and where the Secretary 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.

"(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

[p. 101]

the Secretary 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 rec-

ords, make such reports, and provide such information as the Secretary 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 Secretary 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 Secretary 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) 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.

[p. 102]

"(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 or 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 Secretary, 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, 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.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 14. (a) The Secretary 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 Secretary, 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

[p. 103]

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.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 15. (a) The Secretary, 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 pollu-

tion, 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 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 Secretary.

"(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.

"TRAINING GRANTS AND CONTRACTS

"SEC. 16. The Secretary 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

[p. 104]

"(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 Secretary 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 Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(2) The Secretary 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 purposes of this section.

"(3) (A) Payment under this section may be used in accordance with regulations of the Secretary, 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 Secretary 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 Secretary may determine but not to exceed four academic years.

"(2) The Secretary 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—

[p. 105]

"(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 Secretary 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 development set forth by the applicant in an application, if any, submitted pursuant to section 1 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Secretary 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 Secretary 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 Secretary 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 Secretary 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 Secretary by or pursuant to regulation.

"(6) The Secretary 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 Secretary determines appropriate.

"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.

[p. 106]

"(B) 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 Secretary for this purpose. For purposes of this subsection, the Secretary 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 Secretary.

"(2) The Secretary shall annually report his activities under sections 16 through 19 of this Act, including recommendations 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. 20. (a) The Secretary 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 the elimination or control of water pollution in those native villages of Alaska without such facilities. Such projects 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 Secretary 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 Secretary 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."

SEC. 103. Redesignated section 21 of the Federal Water Pollution Control Act, as amended, is amended to read as follows:

"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

[p. 107]

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 Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such 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 hearing shall include references to any such discharges which are contributing to the pollution found by such board.

"(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 Secretary 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 Secretary. If the State, interstate agency, or Secretary, 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 Secretary, as the case may be.

"(2) Upon receipt of such application and certification the licensing

or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary 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 its water quality standards, and within such sixty-day period notifies the Secretary 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 Secretary 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 Secretary, 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 standards. If

[p. 108]

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 Secretary, 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 Secretary, 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 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, 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 Secretary, 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 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 Secretary 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 Secretary 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 Secretary, 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 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.

[p. 109]

"(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.

"(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, 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 Secretary 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 Secretary 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 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."

SEC. 104. Redesignated section 22 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following:

"(f) (1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Govern-

ment 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 Secretary 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.

[p. 110]

"(2) The Secretary 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 secretary, and the awarding of such recognition shall be published in the Federal Register."

SEC. 105. Section 5 of the Federal Water Pollution Control Act, as amended, is amended as follows:

"(1) by redesignating subsections (g) and (h) as (m) and (n), respectively, including all references thereto;

(2) by inserting after subsection (f) the following new subsections:

"(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 Secretary shall finance a pilot program, 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, 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 Secretary 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 Secretary 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 Secretary 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 Department of the Interior 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 water pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Secretary 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

[p. 111]

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 Secretary 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 construction of publicly owned research facilities for such purpose.

"(i) The Secretary 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 Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(i) The Secretary 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 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 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 Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary 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 Secretary as the circumstances require.

"(l) (1) The Secretary 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.

[p. 112]

"(2) For the purpose of assuring effective implementation of standards adopted pursuant to paragraph (1) the President shall, in consultation with appropriate local, 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."

(3) in redesignated subsection (m) (4) by striking out the words "and June 30, 1969," and inserting in lieu thereof "June 30, 1969, June 30, 1970, and June 30, 1971,";

(4) by amending the first sentence of redesignated subsection (n) to read as follows: "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.".

SEC. 106. Section 6 (e) of the Federal Water Pollution Control Act (33 U.S.C. 466c–1) is amended as follows:

(1) Paragraph (1) is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "five succeeding fiscal years,".

(2) Paragraph (2) is amended by striking out "two succeeding fiscal years," and inserting in lieu thereof "four succeeding fiscal years,".

(3) Paragraph (3) is amended by striking out "two succeeding fiscal years," and inserting in lieu thereof "four succeeding fiscal years,".

SEC. 107. Redesignated section 24 of the Federal Water Pollution Control Act, as amended, is amended by deleting the following: "the Oil Pollution Act, 1924, or".

SEC. 108. The Oil Pollution Act, 1924 (43 Stat. 604), as amended

(80 Stat. 1246–1252), is hereby repealed.

SEC. 109. The Secretary of the Interior shall conduct a full and complete investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law. The results of such investigation and study shall be reported to Congress no later than December 31, 1970, together with the recommendations of the Secretary for financing the programs for preventing, controlling, and abating water pollution for the fiscal years beginning after fiscal year 1971, including any necessary legislation.

SEC. 110. (a) The first sentence of section 2 of the Federal Water Pollution Control Act (33 U.S.C. 466–1) is amended by striking out "Federal Water Pollution Control Administration" and inserting in lieu thereof "Federal Water Quality Administration".

(b) Any other law, reorganization plan, regulation, map, document, record, or other paper of the United States in which the Federal Water Pollution Control Administration is referred to shall be held to refer to the Federal Water Quality Administration.

SEC. 111. Section 8(c) of the Federal Water Pollution Control Act is amended in the fourth sentence by inserting after "because of lack

[p. 113]

of funds" the following: "including States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of this subsection".

SEC. 112. Section 10 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end of subsection (c)(3) the following new sentence: "In establishing such standards the Secretary, the hearing board, or the appropriate State authority shall take into consideration their use and value for navigation."

TITLE II—ENVIRONMENTAL QUALITY

SHORT TITLE

SEC. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

FINDINGS, DECLARATIONS, AND PURPOSES

SEC. 202. (a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

OFFICE OF ENVIRONMENTAL QUALITY

SEC. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the

[p. 114]

Office to carry out its functions under this title and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist

or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3618 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

REPORT

SEC. 204. Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

AUTHORIZATION

SEC. 205. There are hereby authorized to be appropriated not to

exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91-190.

Approved April 3, 1970.

[p. 115]

1.2k(1) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91-127, 91st Con., 1st Sess. (1969)

WATER QUALITY IMPROVEMENT ACT OF 1969

MARCH 25, 1969.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 4148]

The Committee on Public Works, to whom was referred the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

The amendment strikes out all after the enacting clause and inserts a substitute text which appears in italic type in the reported bill.

PART I

CONTROL OF POLLUTION BY OIL AND OTHER MATTER

The water pollution problem is a large and complex one. Previous reports submitted by this committee in support of the Federal Water Pollution Control Act of 1948, the amendments enacted in 1961, the Water Quality Act of 1965, and the Clean Water Restoration Act of 1966, have dealt in detail with what is happening to our water, what permitting the damage to continue will do to the Nation's health, safety, and development, and what must be done to stop the continuing damage and reverse the pollution process.

Repeatedly, increasing scientific and technical expertise have brought to the fore aspects of the broad problem of which we were not aware, or with which we had dealt inadequately in the past. Events of catastrophic proportions have confronted us with dramatic evidence of the need for new or better preventive or control laws and procedures.

[p. 1]

It is in this context that the committee recommends—urges—the enactment of H.R. 4148, the Water Quality Improvement Act of 1969.

Recognition that oil is a potentially serious water pollutant is not new. The Congress recognized the need for control in the Oil Pollution Act of 1924 reported by this committee. But by almost any relevant yardstick, 1924 was an altogether different life. The breakup of the tanker *Torrey Canyon*, with its incalculable damage to the coast of England and its nearly $8 million cleanup cost, warned us that existing Federal oil pollution control programs would be inadequate to handle a similar catastrophe if it occurred here. Devastation of California's beaches 2 months ago by oil from an offshore drilling rig made the lesson loud and clear. It may not even be possible to assess the vast damage to marine life and recreation. This committee made an on-the-site investigation at Santa Barbara and found the physical situation appalling.

The Oil Pollution Act of 1924 is simply not sufficient to cope with such problems. It applies only to discharges and spills that are grossly negligent or willful; limited to vessels, it does not apply at all to spills from fixed installations such as pipelines, oil deposits, refineries, or manufacturing plants or other types of industrial activity using and storing large quantities of oil. Confined to oil, the 1924 act provides no protection against dozens of other potentially hazardous substances.

In addition to its contamination of water, shoreline, and beaches, oil often has severe effects on fish and wildlife, shellfish, and recreation. Untold ecological damage can result not only from the oil itself but also from chemicals used in attempting to deal with the oil. We must be able to combat this type pollution and prevent, wherever possible, catastrophies like these. It is in large part to that need that H.R. 4148 is addressed.

H.R. 4148 is not simple legislation. A section-by-section analysis is essential to its adequate presentation. That analysis appears as part II of this report. Part I of the report, here, is therefore confined to elaboration not appropriate in the bill itself.

OIL POLLUTION

Section 17(a) sets forth the definitions of the terms used in the

bill. Subsection 17(a)(2) is a general definition of matter which would present an imminent and substantial hazard. The term could extend to more than 200 substances. The Secretary of the Interior is now reviewing a list of over 200 substances to determine what should in fact be held to be hazardous. Before this subsection can become meaningful, the Secretary will have to issue regulations, following the usual administrative procedures governing such issuance, identify in hazardous matter. The committee expects that the Secretary will proceed as rapidly as possible in this regard. Specific note should be made of the fact that the definition of matter does not include by-product material, source material, and special nuclear material as defined in the Atomic Energy Act of 1954.

The requirement that notice of discharge of oil or matter be given to appropriate authority, contained in subsection 17(b), is essential to expeditious and efficient cleanup action. It is a requirement placed upon the individual who is operationally *responsible* for the vessel or facility involved. It is not intended to include seamen, in the case of a

[p. 2]

vessel, for example, or to a night watchman or janitor in the case of a facility. By this clarification, however, we do not mean that the requirement is limited to the president of a large corporation or the owner of a vessel. The emphasis is on *operationally* responsible at the time of discharge.

This provision does not extend to private waters such as landlocked ponds specifically built, for instance, to receive drilling refuse, or for similar purposes.

Public vessels are exempt from the penalty for failure to give notice but the committee expects that public agencies will by appropriate regulation or instruction require that operational personnel give the notice of discharge the bill demands.

The committee is aware that the term "substantial" as it appears in subsection 17(b) and in subsequent subsections of the bill is subject to varying interpretation and judgments. It is, as a practical matter, impossible to substitute a more specific term. What is a "substantial" discharge into a river or a harbor, for example, might be insignificant if discharged into the Atlantic when turbulent water would result in rapid dispersal. By the same token, an insignificant discharge at sea might well be overwhelming in another area.

With respect to the cleanup authority vested in the Federal Government under subsection 17(d)(1), the committee calls attention to the fact that the Federal Government is responsible for discharge cleanup without regard to the cause of the discharge (including acts of God) or the location of the waters of the United States into which

it occurs. The committee urges that to the extent feasible in the particular situation the State and local groups already formed for continuing cleanup programs will be called upon for assistance.

The authority of the United States to remove or destroy a vessel where a marine disaster situation has created a substantial threat of pollution follows closely both the philosophy and the language of the same authority vested in the Corps of Engineers, by law in 1899, in situations where the vessel constitutes a threat to navigation. It should be noted that liability for the cost of such removal is limited to vessels negligently operated and thereby the cause or contributory to the cause of the disaster involved.

Subsection 17(e) (1) requires that the owner or operator immediately remove any discharge. If he fails to do so and the United States performs the cleanup, the willful or negligent owner or operator and vessel is liable for up to $10 million of the cleanup cost, or a sum equal to $100 per gross registered ton, whichever is less. This liability is a liability per vessel, per owner, except that in the case of a barge tow, each barge in the tow is considered to be a separate vessel. Under subsection 17(e) (1), the United States may proceed against the owner or operator of any vessel that causes or contributes to the cause of the discharge, even though the discharge actually comes from another vessel.

The cleanup liability provision with respect to onshore and offshore facilities, contained in subsection 17(f) (3), sets a maximum possible liability of $8 million. As to onshore facilities, it requires that the Secretary of the Interior, through full public hearing procedure and in consultation with interested Federal agencies, including the Small Business Administration, establish classifications of onshore facilities and activities and set differing limits of liability for each classification,

[p. 3]

none of which may be in excess of $8 million. This subsection is so written as to provide a high liability for a large discharge from a major facility and at the same time insure that reasonable low liability will be set for the hundreds of small businesses and other facilities along our waters whose potential discharge would be small and upon whom a large liability could very well impose a ruinous burden. The subsection does not apply to any onshore facility until the Secretary establishes its classification, and the Secretary must submit intended classifications and liability limitations to the Congress at least 60 days before they are to become effective.

Subsection 17(g) requires that the Secretary of the Interior issue regulations "establishing environmental quality" criteria relating to

the methods and procedures for the removal of oil and matter. The words "establishing environmental quality" refer solely to ecological protection and the chemicals, substances, or conceivable devices that may or may not, because of their efficacy on the one hand or deleterious effects on the other, be used in cleanup. These words do not extend in any sense, to the subject of environmental quality generally.

Subsection 17(g)(2) prescribes the civil penalty for violation of cleanup regulations. It protects the vessel owner or operator, and the person who owns or operates an onshore or offshore facility by requiring that notice be given and an administrative hearing be held before the penalty may be assessed. If the individual concerned disagrees with the assessment of the penalty, he has full de novo judicial protection in that the United States would have to bring an action in an attempt to collect the penalty.

Subsection 17(h)(1) authorizes a revolving fund to cover Federal cleanup costs. The "other funds" referred to in the subsection would be derived from reimbursements of cleanup costs and penalties. The fund may be used, under subsection 17(h)(2), to reimburse the States for their assistance in cleanup operations.

The reference to the "national contingency plan" in subsection 17(h)(2) includes the regional contingency plans provided for in the national plan.

Barges are specifically included in subsection 17(k)(1), requiring evidence of financial responsibility, because many barges are not registered.

The study of requirements for financial responsibility and limits of liability called for in subsection 17(k)(3) is necessary because neither the affected industries nor international underwriters have had previous experience in this area of discharge cleanup, and they were unable to supply the committee with adequate factual information in this regard. It is hoped that the results of the study, plus any experience gained in the interim, will disclose any need for amendment that may exist.

CONTROL OF SEWAGE FROM VESSELS

Wastes from ships and boats are still another cause of pollution. It is most severe in bays, inlets, lakes, harbors, and marinas. These pollutants include sewage, oils, chemicals, and other wastes. Most vessels are not equipped to provide even minimal treatment. The growing popularity of recreation craft is almost certain to increase this source of pollution to significant proportions if corrective and preventive action is not set in motion now.

Section 18, contained in H.R. 4148, seeks to provide the corrective and preventive potential.

The definition of "marine sanitation device" includes chemicals, biochemicals, etc., that may be found to be sufficient for the necessary sewage treatment.

The committee wishes to make it clear that it expects the Secretary of the Interior to hold full administrative hearings before he issues the regulations with respect to standards of performance for marine sanitation devices required by subsection 18(b).

The committee also wishes to make it clear that in the application of the standards and regulations for existing vessels, the most careful consideration should be given to the problem of economic costs. The American-flag merchant marine is already in a critical position. More than 80 percent of the nonpassenger vessels are more than 20 years old, and if they are still in operation when the regulations become effective, the cost of their refitting would almost certainly be prohibitive. American-flag passenger vessels are few and are a marginal operation at best. It is obvious that a reasonable approach in these circumstances is called for.

In enforcing the prohibitions contained in subsection 18(b) (4) the committee expects reason to prevail. If the marine sanitation device on a given vessel stops operating while the vessel is out on the water, for example, enforcement action would certainly be inappropriate.

It should be emphasized that the research authority granted the Secretary of the Interior in H.R. 4148 is not intended to eliminate or otherwise affect research activities in similar areas being conducted by the Coast Guard, the enforcement arm for much of the control contained in this bill.

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

Acid mine drainage is another longstanding source of water pollution. The chemical quality of water is altered in streams receiving such drainage. The acid flow destroys fish and fish food organisms, damages recreational and esthetic values, corrodes transport equipment, bridges, and other structures exposed to the water. Waters so polluted require extra and expensive treatment when utilized for municipal and industrial water supplies. Acid drainage is associated with active as well as abandoned coal mining operations; the latter continue to produce acid for indefinite periods after mining is discontinued. An estimated 3.5 million tons of acid mine waters drain into the streams of the United States annually, damaging approximately 4,000 miles of streams.

Although we know what acid mine drainage does, we do not yet know what to do about it. The problem is substantial and possible solutions must be found. Section 19 contained in H.R. 4148 is a straightforward, self-explanatory authorization of a $15 million demonstration research program to seek those solutions.

TRAINING GRANTS AND CONTRACTS

Sections 20 through 23 of the bill expand the training grants program already authorized in the Water Quality Act in an effort to alleviate

[p. 5]

a critical shortage of skilled engineering aides, scientific technicians, and treatment plant operators. The need for this expansion is clearly supported by the report on the study of manpower and training needs in water pollution control. The recommended expansion is clearly set forth and the committee sees no interpretation problems.

COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

Section 3 of H.R. 4148, in subsections 11(a) and 11(b), requires maximum feasible cooperation by all Federal agencies in the control and prevention of water pollution.

Subsection 11(a) deals directly with procedures for control of pollution caused by the administration or actual operation, either directly or by contract, of federally held real property or facilities In attempting to insure that Federal facilities will be in compliance with the applicable water quality standards, the problems to be considered, the priorities to be assessed, and the relative values and public interests to be weighed, are very much akin to the problems, priorities, and interests which must be taken into account by a State when it is establishing water quality standards for a given area, by industries when they are making decisions on how and where they will expand capital investment, and by local governments in attempting to achieve a balance among health and welfare, economic development potential, and supportable tax structure.

The Federal Government obviously must balance much the same factors, within the limits of the funds available and within the broad and complex context of the national interest.

The disposition of dredged spoil is currently the most highly publicized of the possible sources of pollution from a Federal activity. Research is underway seeking to determine whether dredged spoil is in actuality an active pollutant, or if it is, to what extent its introduc-

tion into any given body of water does in fact lower the quality of that water. Whatever the answers are, the continuing viability of the rivers and harbors that produce the spoil are essential to the economies of the regions they serve and hence to the total national interest.

Transporting the spoil to available land disposition sites is extremely expensive; the land is costly and the transportation is costly. The States and localities would much prefer to preserve their land for more economically productive use. The Federal Government must allocate its available tax revenues among a great many equally clamorous public demands. The dilemma is clear; the attainable solutions are dimly seen at this point. Section 11(a) sets forth its present requirements accordingly, subject to future amendment as technology and available money increase and as more definitive local determinations, supportable in the national interest, are made.

Subsection 11(b) requires, first, that any applicant for a Federal license or permit to conduct an activity which may discharge into the navigable waters of the United States provide the Federal agency issuing the license or permit with a certification from the affected State or States or interstate water pollution control agency that the activity will be conducted in a manner that will not reduce the quality of the water below applicable water quality standards; second, that where water quality standards are issued by the Secretary under the

[p. 6]

Water Quality Act of 1965 or where a State or interstate agency lacks authority to issue certification, the Secretary shall provide the certification; third, that in the case of multiple licenses or permits by one or more Federal agencies for the same activity, if the applicant receives a certification for one agency, it need not obtain a certification for the other agency or for succeeding permits or licenses unless the Secretary or the State, upon receipt of notice, objects, except that this provision does not apply to an application for an operating license or permit; and fourth, that no Federal license or permit may be issued until certification is received, except that in any case where actual physical construction of the facility itself has been lawfully commenced prior to the enactment of this act (and by this is meant actual excavation or building; site acquisition, construction of access roads, or similar preliminary or collateral activity would not satisfy the requirement) no certification shall be required under this subsection for a license or permit for the activity after the date of enactment and except, further, that any such license or permit issued without certification shall terminate at the end of the 2-year period beginning on the date of enactment of the Water Quality Improvement Act of

1969 unless prior to such termination date the person having the license or permit submits to the licensing Federal agency a certification which otherwise meets the requirements of this subsection.

A wide variety of licenses and permits (construction, operating and otherwise) are issued by various Federal agencies. Many of them involve activities or operations potentially affecting water quality. The purpose of subsection 11 (b) is to provide reasonable assurance (as determined by the affected State, States, or the Secretary of the Interior) that no license or permit will be issued by a Federal agency for an activity that through inadequate planning or otherwise could in fact become a source of pollution.

The language of the legislation is intended to eliminate duplicating certification requirements, and to afford a safeguard against too broad a use of the single certification.

On March 11 last, our esteemed colleague, the chairman of the Joint Committee on Atomic Energy, expressed his concern about possible conflict between this proposed legislation and the regulatory authority and responsibilities of the Atomic Energy Commission. The legislation here reported, as it relates to nuclear-generating facilities, concerns itself with thermal pollution. Thirty-four of the Nation's 54 jurisdictions now have approved thermal standards for water quality. Heat pollution from industrial and powerplant sources can be expected to increase at a very substantial rate, based on projections of industrial growth and electric power demands. Increased water temperatures affect a stream's capacity to assimilate wastes. Temperature changes also can ruin water for fishing and recreation.

The chairman of the Joint Committee raised, essentially, six points. First, he was fearful that an undesirable competitive factor would develop by virtue of the possibility that a significant fraction of all new electrical generating capacity (other than nuclear) would not be covered by subsection 11 (b). The committee believes this concern is met by the fact that a Federal license or permit of some kind is required for almost all electric generating plants, and any Federal agency granting the relevant license can and should condition the grant upon compliance with applicable water quality standards.

[p. 7]

Second, the chairman questioned the need for certification for both the construction license and the operating license which the Commission grants. Based on testimony by the Commission, the committee has concluded that the very different character of the two applications, the long period of time that elapses between their issuance, and the uncertainty as to the finality of plans at the construction license

stage, all support the requirements for certification with respect to both applications.

Third, the chairman of the Joint Committee recommended that where construction licenses have already been issued, those facilities be exempt from any certification requirement. The problem of a construction permit already issued when the act is passed is of course not peculiar to nuclear facilities, and the committee recognizes that some relief must be accorded in such cases. The subsection therefore provides, as has been outlined above, that where actual physical construction of a plant is already underway, certification is postponed for a period of 2 years, which the committee believes is sufficient time to permit whatever action may be necessary to comply with the water quality standards and obtain the certification.

Fourth, the chairman recommended that judicial authority to suspend a permit on license should be discretionary rather than mandatory, and that recommendation has been followed.

Fifth, the chairman recommended that the certifying agency be required to state "reasonable assurance" of compliance with water quality standards, rather than guaranteeing compliance, and that recommendation has been followed.

And finally, the chairman was concerned that the subsection might in some way, through the water quality standards, alter the Commission's preemptive authority as to radiological health and safety standards, as it is contained in the Atomic Energy Act of 1954. The committee is informed that nothing in subsection 11(b) could be construed as an amendment to the Atomic Energy Act of 1954.

The Atomic Energy Commission has informed the committee that doctors, hospitals, universities, and research institutions are licensed by the Commission to possess and use limited quantities of nuclear materials that might, in minute quantities, be disposed of through a waste treatment system. It is not intended that subsection 11(b) apply to these specific types of licenses or permits.

Section 8 of H.R. 4148 changes the name of the Federal Water Pollution Control Administration to the National Water Quality Administration. The committee believes that the agency should bear a designation that bespeaks its positive goals.

H.R. 4148 authorizes the following appropriations:

Item	Section identification	1970	1971	1972	Total amount
Cleanup revolving fund	17(h)(1)	$20,000,000			$20,000,000
Acid mine drainage reserve	19(d)(1)	15,000,000			15,000,000
Training grants and contracts	23(c)(3)	12,000,000	25,000,000	$25,000,000	62,000,000
Estuary research extension	5(k)(4)	1,000,000			1,000,000
General research, investigation, and training extension.	5(l)	65,000,000	62,000,000		130,000,000
Project research extension	6(e)	60,000,000	60,000,000		120,000,000
Total		173,000,000	150,000,000	25,000,000	348,000,000

[p. 8]

In the water pollution control laws enacted in earlier years, the Congress has authorized the expenditure of approximately $3 billion for all phases of the program. Thus far about two-thirds of that has actually been appropriated at the Federal level. Progress in development of the technology for dealing effectively with water pollution has made tremendous strides. Progress in applying the technology creeps along, and achieving clean water becomes more and more a life and death matter with each passing year. The committee, therefore, respectfully urges that the authorizations contained in this bill be fully funded, and that as to the water pollution control program as a whole, Federal, State, and local governments and the Nation's industries carefully reexamine their present positions in terms of the national jeopardy inherent in the failure to act affirmatively on a large scale.

PART II

SECTION-BY-SECTION EXPLANATION OF H.R. 4148, AS REPORTED

Section 1

This section would cite the act as the "Water Quality Improvement Act of 1969."

Section 2

This section would add seven new sections (17, 18, 19, 20, 21, 22, and 23) to the Federal Water Pollution Control Act.

CONTROL OF POLLUTION BY OIL AND OTHER MATTER

Section 17(a) would define various terms used in this new section.

Paragraph (1) would define the term "oil" to include fuel oil, sludge, and oil refuse, but to exclude oil mixed with dredged spoil.

Paragraph (2) would define the term "matter" to include any substance which, when discharged in substantial quantities, presents, in the judgment of the Secretary of the Interior, an imminent and substantial hazard to the public health or welfare. The definition specifi-

cally excludes from this term oil, dredged spoil, and sanitary wastes, and certain material now covered by the Atomic Energy Act of 1954. In the latter case, the committee is advised by the AEC that it has adequate authority to require its licensees to take measures to prevent damage from discharges of these materials. Under this definition, the Secretary would be expected to publish a list from time to time of the types of substances included in this definition in order to inform the public in accordance with established administrative procedures.

Paragraph (3) defines the term "discharge."

Paragraph (4) defines the term "remove or removal" to mean the taking of reasonable and appropriate measures to mitigate the potential damage that a discharge of oil or matter might have on the public health or welfare including fish, shellfish, wildlife, and private and public beaches and shorelines.

Paragraphs (5) and (6) define the terms "vessel" and "public vessel."

Paragraph (7) defines the term "United States."

Paragraph (8) defines the term "owner or operator."

[p. 9]

Paragraph (9) defines the term "person."

Paragraph (10) defines the term "contiguous zone" which means the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Section 17(b) would require that any individual in charge of a vessel, other than a public vessel or an offshore or onshore facility or a Federal or State facility, at the time of a discharge of oil in substantial quantities into the navigable waters of the United States or into the waters of the contiguous zone must immediately notify either the Secretary of the Interior or the Coast Guard as soon as he has knowledge of the discharge. While the language of the section does not require notification by individuals in charge of public vessels or federally or State-owned facilities, it is expected that the Federal Government and the States will take appropriate measures to insure that some procedure is adopted to provide notification where there are discharges from such vessels or facilities.

This section would also provide a criminal penalty for any individual in charge of such vessel or facility who fails to notify the Secretary or the Coast Guard of a discharge. The term "individual in charge" is deliberately designed to cover only supervisory personnel who have the responsibility for the particular vessel or facility and not to include other employees.

Section 17(c)(1) would prohibit the discharge of oil or matter in

substantial quantities from any vessel into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, if such oil threatens to pollute or contribute to the pollution of the territorial sea of the United States, and subjects violators to the penalties in section 17(c) (2). The section excepts from this prohibition various circumstances such as acts of war or sabotage or acts of God, or unavoidable accidents, collisions, or strandings, or discharges permitted under article IV of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil.

Section 17(c) (2) would provide a civil penalty against the owner or operator of a vessel, except a public vessel, and against the vessel of up to $10,000 where there is a willful or negligent discharge of oil or matter in substantial quantities from such vessel. No penalty can be assessed unless the owner or operator or vessel is given notice and an opportunity for a hearing. Each violation is a separate offense. The penalties will be assessed by the Coast Guard. In determining the amount of the penalty or in compromising the penalty, the Coast Guard must take into consideration the size of the business, the ability of the owner or operator to continue in business, and the gravity of the violation. Provision is made for withholding clearance of the vessel until the penalty is paid and for the filing of bonds or other sureties. The penalty will constitute a lien on the vessel which may be recovered in an action in rem.

Section 17(d) (1) would require that the United States remove or arrange for the removal of any oil or matter discharged into any waters, shorelines, or beaches, when in the judgment of the Secretary of the Interior, such discharged oil or matter presents an actual or threatened pollution hazard without regard to any question of fault. Under this section, the United States would only exercise this authority if the United States determines that the owner or operator or a

[p. 10]

vessel or facility has not made adequate arrangements for removal of the oil or matter as required by this legislation.

Section 17(d) (2) would provide authority similar to that found in an 1899 statute administered by the Secretary of the Army (33 U.S.C. 415). The section in many respects is patterned after the 1899 statute. The section would authorize the United States, in the case of a marine disaster within the navigable waters of the United States which has created a substantial threat of a pollution hazard because of an actual or imminent discharge of oil or matter from the vessel, to coordinate and direct public and private efforts in the removal or alleviation of the threat, and to remove summarily and if necessary

destroy the vessel by whatever means are available. The expense of removing the vessel shall be charged against the vessel's cargo and the owner or operator where it is shown that negligent operation of the vessel caused or contributed to the marine disaster. If the owner or operator fails to reimburse the United States of such expense within a specified time, the United States may sell the vessel or its cargo, and deposit the proceeds in the revolving fund established by this section.

Section 17(e)(1) would require that the owner or operator of a vessel who willfully or negligently discharges or permits or causes or contributes to the discharge of oil or matter into the navigable waters of the United States or adjoining shorelines or beaches, or into the waters of the contiguous zone, immediately remove the discharged oil or matter in accordance with the regulations prescribed by this section. In any case where the United States removes the oil or matter, the vessel and the owner or operator shall be liable to the United States for the cost thereof. The liability to the United States, however, with respect to each offending vessel and the owner or operator of each offending vessel shall not exceed $10 million or $100 per gross registered ton, whichever is the lesser amount. The term "registered" should not be construed to mean that the vessel is listed in the official register of vessels of a country. Thus, it need not be registered. This limitation on liability is intended to be the only limitation on liability for discharge of oil or matter under this section, notwithstanding any other provisions of law. This section would provide for the withholding of clearance of a vessel until these costs are paid and for posting of bonds or other sureties. It also provides for the establishment of a maritime lien on the vessel which may be recovered in an action in rem.

This section would also authorize the United States to bring an action against the owner or operator in any court of competent jurisdiction to recover such costs. The United States shall also have a cause of action against any other owner or operator or vessel whose willful act or negligence was found to cause or contribute to the discharge of the oil where there has been a collision or other casualty.

Section 17(e)(2) would provide that, in case of any action instituted by the United States to recover its cost of cleanup and certain penalties under this section, the evidence of a discharge of oil or matter shall constitute a prima facie case of liability to the United States on the part of the owner or operator of the vessel or the person owning or operating an onshore or offshore facility. The burden of rebutting such prima facie case would be on the owner or operator or person as appropriate. This burden, however, shall not affect any rights which such owner or operator or person may

have against other vessels or facilities or owners or operators or

[p. 11]

persons whose willful act or negligence may in some way have caused or contributed to the discharge.

Section 17 (f) (1) would require that any person who owns or operates an onshore facility other than a Federal- or State-owned facility and who willfully or negligently discharges or permits the discharge of oil or matter into any waters must immediately remove the oil or matter in accordance with the regulations prescribed under this section.

Section 17 (f) (2) would require that any person who owns or operates an offshore facility other than a Federal or State facility which is located within the seaward boundaries of a State as defined in the Submarginal Lands Act of 1953, and who willfully or negligently discharges or permits the discharge of oil or matter from such facility into any waters or shorelines or beaches, must immediately remove the oil or matter under the regulations prescribed under this section.

Section 17 (f) (3) would provide that if the United States removes oil or matter discharged from any onshore or offshore facility just mentioned, the person who owns or operates the facility shall be liable to the United States for the cost incurred therein provided that such liability shall not exceed $8 million. The Secretary shall establish by regulation, in consultation with the Secretary of Commerce and the Small Business Administration, reasonable and equitable classifications of onshore facilities and activities and apply with respect to such classifications differing limits of liability which may be less than such $8 million limitation and none of which shall be in excess of $8 million. The classifications would take into account the types of businesses and other facilities affected. The provisions of section 17 (f) (3) shall not apply to any onshore facility until it comes within the classification established by the Secretary. The Secretary's classification, however, shall not be established until the expiration of at least 60 days after notification to the Congress of such intended classification.

Under existing law under the terms of the Outer Continental Shelf Lands Act of 1953 the Secretary of the Interior now has the authority to impose such rules and regulations by lease agreements as he determines necessary for the operation of offshore drilling in that particular area. The Secretary has implemented such rules and regulations by departmental action in February of this year.

Section 17 (f) (5) would provide that the provisions in section 17 (f) relative to the imposition of any requirement or liability limitations on onshore or offshore facilities with respect to the discharge of oil or

matter into any waters within the jurisdiction of a State shall not be considered as an attempt to preempt the authority of the State or any political subdivision thereof to impose additional requirements on such facilities.

Section 17(g) (1) would require that within 60 days after the enactment of this section the Secretary of the Interior must issue regulations establishing environmental quality criteria relative to methods and procedures of removing discharged oil and matter and that the Coast Guard must by regulations establish procedures, methods, or equipment consistent with such regulations for the removal of such discharged oil or matter. The objective of these regulations would be to insure that the waters, beaches, and shorelines, including the marine environment, will not be damaged through the use of harmful chemicals

[p. 12]

or other materials. This section would also provide for the issuance, by the Coast Guard of regulations establishing procedures, methods, and equipment to prevent discharges of oil from vessels, within 60 days after enactment. These regulations may be revised from time to time.

Section 17(g) (2) would establish civil penalties for the violation of any regulations issued under subsection 17(g) (1) relative to the removal of discharged oil or matter. Each violation would be a separate offense and the Coast Guard would assess the penalty and other compromise. The penalty shall not be assessed until notice and an opportunity for a hearing have been given. In order to collect the penalty finally, the United States would have to file a civil action in the U.S. district courts which will provide a de novo proceeding.

Section 17(h) (1) of the bill would establish a revolving fund in the Treasury to be administered by the Coast Guard of not to exceed $20 million and authorize appropriations in that amount to the fund as well as the depositing of other revenues received by the United States under this section 17 of the act. Sums deposited into the fund shall be available to reimburse a State or political subdivision thereof that assists in the removal of any discharged oil or matter. The moneys in the fund shall be available until expended.

Section 17(h) (2) would provide for the delegation by the President within 90 days after the enactment of this section of the authority for the United States to remove discharged oil or matter to the Coast Guard or to the Secretaries of Defense or Interior or other Federal agencies in accordance with any national contingency plan or revision thereof which has been approved by the President, including regional contingency plans. Each agency to which this

authority is delegated will be able to utilize the personnel, services, and facilities of other Federal and State agencies.

Section 17 (h) (3) would authorize the Secretary of the Interior to issue regulations in consultation with the Coast Guard permitting discharges of oil or matter under such conditions as he may prescribe and at times and locations deemed appropriate by him.

Section 17 (h) (4) would provide that the provisions prohibiting discharges of oil or matter from vessels and the regulations issued under section 17 (g) of this section shall be enforced by the Coast Guard and that the Coast Guard may utilize the services of other Federal and State agencies in carrying out these provisions.

Section 17 (h) (5) would authorize the Coast Guard to board and inspect facilities and to make arrests in connection with any violations of this act.

Section 17 (h) (6) would provide for the bringing of actions in certain courts where violations have occurred in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Section 17 (i) would provide that the provisions of section 17 shall not affect or modify the obligations of any owner or operator of any vessel or onshore or offshore facility under other provisions of law for damages to public or privately owned property which might occur as a result of a discharge of oil or matter or as a result of actions taken in the removal of such discharges.

Section 17 (j) would provide that the provisions of section 17 shall not be construed as authorizing either the Secretary of the Interior

[p. 13]

or the Coast Guard to regulate the operations or construction of any onshore or offshore facility. This section also would provide that the provisions of section 17 shall not be construed as affecting or modifying any other existing authorities of either Secretary relative to such facilities under this act or any other provision of law.

Section 17 (k) (1) would provide that any vessel over 100 gross registered tons which uses any port or place in the United States or the navigable waters of the United States for any purpose must establish evidence of financial responsibility to meet the maximum potential liability to the United States which the vessel could be subjected to for the willful or negligent discharge of oil or matter under this section. In any case where the owner or operator of the vessel owns, operates, or charters a fleet of vessels, he need only establish financial responsibility to meet the maximum liability to which the largest of these vessels could be subjected. The financial responsibility should be established pursuant to regulations to be

prescribed from time to time by the agency head to which the President has delegated this responsibility. Financial responsibility may include insurance policies, bonds, evidence of self-insurance, or evidences of such responsibility that the agency head deems appropriate. All bonds filed must be issued by a bonding company authorized to do business in the United States. Provisions of financial responsibility also apply to barges that are equivalent in size to vessels over 100 tons. The term "registered" does not mean that the vessel itself must be registered in the official listing of vessels of a country.

Section 17(k) (2) would provide that the financial responsibility provisions of section 17(k) (1) shall become effective 1 year after enactment of this section. The President is required to delegate this responsibility to the appropriate agency head within 60 days after enactment. In addition, the necessary regulations to implement this section must be issued within 6 months after the effective date of the section.

Section 17(k) (3) directs that the Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other Federal agencies such as the Small Business Administration and representatives of various industries such as the merchant marine, oil, and insurance industries and other interested persons conduct a study relative to other measures to provide financial responsibility and limitations of liability with regard to vessels and measures to provide financial responsibility for onshore and offshore facilities, and finally measures relative to the limitations of liability on such facilities in relation to the cost of removing discharged oil or matter and the payment of all damages that may result from the discharge of oil or matter and from the removal of the discharges. The study is to be completed by January 1, 1971, and a report sent to the Congress with appropriate recommendations, including legislative recommendations.

CONTROL OF SEWAGE FROM VESSELS

Section 18 would provide for the control of sewage from vessels including foreign vessels using our waterways and commercial and recreational vessels.

Section 18(a) would define various terms used in the new section.

[p. 14]

Section 18(b) would direct the Secretary of the Interior to promulgate Federal standards of performance for marine sanitation devices to be installed and operated on board vessels subject to this new section. The term "marine sanitation device" is defined to include equipment on board the vessel which is designed to receive, retain,

treat, or discharge sewage. It is intended that this definition could include chemical treatment as a device for treating sewage. The objectives of the standards would be to insure that these devices will prevent the discharge of untreated or inadequately treated sewage into or upon U.S. waterways. The standards must be consistent with maritime safety and other marine laws and regulations. In addition, the Coast Guard must also promulgate regulations governing the design, construction, installation, and operation of these devices on board these vessels. It is expected that both agencies will conduct appropriate public hearings to afford interested persons and industries and the States an opportunity to comment on proposed standards and regulations. It is also expected that both agencies will work closely together in the development and promulgation of the standards and regulations.

Section 18(c) would provide that the initial standards and regulations will be effective for new vessels—that is, vessels constructed after such standards and regulations are promulgated—2 years after promulgation, but not earlier than December 31, 1971, and for existing vessels—that is, vessels constructed prior to promulgation of the standards and regulations—5 years after promulgation.

Both Interior and Coast Guard, in issuing standards and regulations, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels. Both may exempt such vessels from the applicability of the standards and regulations for such periods of time as may be necessary and upon application for individual vessels. This waiver authority could be accomplished at the time the standards and regulations are promulgated.

Section 18(d) would provide that this new section and the standards and regulations issued thereunder would apply to vessels owned and operated by the United States unless the Secretary of Defense finds that such compliance would be contrary to the interests of national security. The regulations required by this section and the certifications required under section 18(g) of this section shall be promulgated and issued by the Secretary of Defense rather than by the Coast Guard.

Section 18(e) would require that before the standards and regulations are promulgated, the Secretary of the Interior and the Coast Guard will consult with other interested Federal agencies, the States, and appropriate representatives of the various industries affected and shall comply with the rulemaking provisions of title 5 of the United States Code, formerly known as the Administrative Procedures Act.

Section 18(f) would provide that once the initial standards and regulations are effective a State or a political subdivision thereof may not adopt or enforce any law or regulation governing the design,

manufacture, or installation of any marine sanitation device on board any vessel subject to the Federal standards and regulations. The section would not, however, affect the State's authority to prohibit completely all sewage discharges from vessels in particular intrastate waters of the State, regardless of whether the sewage is treated or not.

[p. 15]

In such cases however, the State must also prohibit waste discharges from all other sources.

Section 18(g) would prohibit the sale or delivery into interstate commerce or importation into the United States of any marine sanitation device unless such device is in all material respects substantially the same as the test device certified by the Coast Guard under this section. The subsection would require the Coast Guard to certify upon application of each manufacturer of these devices if he finds that they meet the standards and regulations promulgated under this section. The Coast Guard would require the manufacturer to test the device in accordance with procedures set forth by the Secretary of the Interior as to performance or he shall test it himself. It would be up to the Coast Guard to determine if the results of the test are in accordance with the appropriate performance standards. If the Coast Guard finds that the device is satisfactory from the standpoint of safety and other requirements of maritime law or regulation, and after considering the design, installation, operation, and material, and other appropriate factors, he would certify it.

Every manufacturer would be required to maintain records and provide such information as the Secretary or the Coast Guard may need to enable them to determine whether the manufacturer has acted or is acting in compliance with this section and regulations thereunder.

Section 18(h) would provide that after the effective date of standards and regulations promulgated by Interior and Coast Guard it shall be unlawful (1) to manufacture for sale vessels subject to the standards and regulations without a certified device; (2) for a vessel to operate on the navigable waters of the United States subject to the standards and regulations, if it is not equipped with an operable marine sanitation device; (3) to refuse Federal authorities access to records; and (4) to move or render inoperative, wrongfully, a certified device installed prior to sale or delivery to the ultimate purchaser.

Section 18(j) would establish civil penalties for violation of section 18(h) to be assessed by the Coast Guard. The maximum penalty against the manufacturer and dealer is $5,000 and against other per-

sons violating 18(h)(4) $2,000. The penalty cannot be assessed until there is notice and an opportunity for a hearing.

Sections 18 (k) and (l) would provide that the enforcement of this new section would be carried out by the Coast Guard and that the Coast Guard may utilize the services, personnel, and facilities of the Secretary of the Interior and other Federal agencies where appropriate.

Section 18(m) would provide jurisdiction in the courts of Guam and the Virgin Islands in the case of actions arising under this section. In the case of American Samoa and the Trust Territory of the Pacific Islands, these actions may be brought in the district court for the district of Hawaii.

ACID MINE POLLUTION CONTROL

Section 19 would authorize a demonstration program regarding acid or other mine water pollution control.

Section 19(a) would authorize the Secretary of the Interior to carry out an areawide program within all or part of a watershed to demonstrate methods for the elimination or control of acid or other mine water pollution resulting from active or abandoned mines. The work

[p. 16]

would be done under agreements with the interested States or interstate agencies acting jointly or severally depending on where the project is located. The projects must demonstrate the engineering and economic feasibility and practicality of using single or multiple abatement techniques.

Section 19(b) would provide that the project area be all or part of a watershed. In selecting such an area, the Secretary must (1) require, to the extent needed, a feasibility study which may be carried out by the Secretary or the States, (2) give a preference to those areas with the greatest public values and uses either present or future, and (3) be satisfied that the project area will not be affected to any serious degree from other polluting sources.

Section 19(c) would provide that the State share of a project shall be at least 25 percent of the total project costs. This payment may be in the form of land or interests therein actually acquired by the State or a subdivision thereof for the project after the enactment of this new section, facilities, and personal services, and money. The value of the land, facilities, and services will be determined by the Secretary. It is the purpose of this section to encourage the States to participate to the greatest extent possible so that there may be

developed meaningful projects which will produce the experience needed to develop an effective control program.

The bill would require the State to establish adequate mechanisms and controls, including plans of enforcement, to prevent any activity that may cause future mine water pollution and destroy or severely damage the work carried out in the project area.

Section 19(d) would authorize a maximum appropriation of $15 million for this program. The funds would be available until expended. It would also limit the total Federal grant to any one State in any one year to 25 percent of the funds actually appropriated to carry out this program.

TRAINING OF PERSONS IN WATER QUALITY CONTROL

Section 20 would authorize grants and contracts with institutions of higher education to assist these institutions with programs or projects to train undergraduate students interested in the design, operation, including supervision, inspection, and evaluation, and maintenance of waste treatment works and other facilities for water quality control. The grants or contracts may be used to plan programs or projects to train persons in the operation of such works, to train and retrain faculty, to conduct institutes, to carry out new cooperative work-study programs involving the operation and maintenance of such works, and to conduct research and development projects to train students or faculty.

Section 21 would provide that a grant or contract under section 20 may be made only upon application to the Secretary, submitted at such time or times and containing such information as the Secretary determines necessary. The Secretary shall not approve an application unless it (1) sets forth a program for carrying out two or more projects or activities which meet the requirements of section 20 and provide for proper and efficient methods of administration, (2) provides the necessary fiscal control and further accounting procedures, and (3) provides for such reports as the Secretary may require to

[p. 17]

carry out his functions under this section and for the keeping of appropriate records.

It is expected that the applications would also set forth policy and procedures which would assure that the Federal funds dispersed under this section in any fiscal year will be used, not to supplant, but to supplement, and, to the extent practicable, increase the funds that might be available to the institution in the absence of the Federal funds.

The section would direct the Secretary to allocate section 20 grants or contracts in a manner that would equitably distribute them nationwide among the qualified educational institutions that show, in his judgment, promise that they can use the funds effectively to obtain the goals of this program. Payments made by the Secretary will be available under the Secretary's regulations and in accordance with such conditions as he may prescribe to pay a portion of the compensation of a student employed to a work-study program in connection with the operation or maintenance of waste treatment works. The payments, however, could not apply to regular employees of such works or Government employees.

Section 22 would provide a program of scholarships for undergraduate study by persons who plan to enter into the field of operation and maintenance of waste treatment works. The duration of the scholarship will be the period, not in excess of 4 academic years, required by the recipient to complete his undergraduate course of study at the institution. The scholarship will entitle the recipient to payments only if he (1) is maintaining satisfactory progress in the course of study which he is pursuing, and (2) is devoting full time to that course of study or research and not engaging in any gainful employment other than employment approved by the Secretary under regulations prescribed by him. In addition, the Secretary shall by regulation provide that recipients of a scholarship must agree in writing in advance to enter and remain in an occupation involving the design, operation, or maintenance of waste treatment works after the completion of the recipient's studies for such period as the Secretary determines appropriate. The Secretary must allocate scholarships among institutions of higher education for the use of individuals accepted into approved programs of such institutions according to a plan which, to the extent practicable, will provide an equitable distribution of the scholarships nationwide and attract recent graduates from secondary schools to enter the field of operating and maintaining waste treatment works.

The Secretary will approve a program of an educational institution for the purposes of section 22 upon application by the institution and upon the finding that the principal objective of the program is to train and educate persons in the maintenance and operation of treatment works, that the program is of high quality and can readily be put into effect, that the application describes the relation of the program to any program activity, research, or development set forth by the institution in any application it may have under section 20 of this act, and finally that the application contains assurance satisfactory to the Secretary that the institution will recommend to the Secretary for scholarships only persons who have clearly demonstrated a seri-

ous intent upon entering the program to enter into the operation and maintenance of waste treatment works, and that the institution will

[p. 18]

develop programs to encourage scholarship recipients to enter into such an occupation upon completion of their studies.

The Secretary shall pay to scholarship recipients such stipends as he determines to be consistent with the prevailing practices under comparable federally supported programs. In addition to the stipends, the Secretary shall pay to the educational institution at which such person is pursuing his course of study, an amount he determines to be consistent with prevailing practices under comparable federally supported programs in support of the student.

To guide participating institutions it is expected the Secretary will prescribe basic criteria or schedules for the determination of the scholarship amounts. These criteria or schedules will take into account the objective of the program, the need of the student, and other factors that the Secretary determines relevant.

Section 23 would define various terms used in sections 20 through 23 including the definition of an institution of higher education and directs that the Secretary publish a list of nationally recognized accredited agencies or associations which he determines to be reliable authorities as to the qualities of training offered by an educational institution.

This section also requires an annual report of the activities under sections 20 through 23 to the Congress, including recommendations for needed revisions thereof. In addition, this section would authorize appropriations for fiscal years 1970, 1971, and 1972 to carry out sections 20 through 23 including such planning and implementation activities that may be needed to carry out the purposes of these sections. Funds appropriated for fiscal year 1970 shall be available for obligation in that fiscal year and the succeeding fiscal year. The total authorized appropriations for the 3 fiscal years is $62 million.

It should be emphasized that the provisions of sections 20 through 23 are in addition to those provisions of section 5 of the Federal Water Pollution Control Act and are not intended to supplant those provisions which relate to the training of persons in the field of water quality control. Under those sections a number of persons are now receiving training in the field of water quality control which will be useful not only in the operation and maintenance of treatment works, but in the entire field of water quality control including research, investigations, and planning.

Section 3

This section would amend section 11 of the Federal Water Pollution Control Act, as amended.

Section 11 (a) is designed to put into statutory terms the provisions of the President's Executive Order 11288 for the prevention, control, and abatement of water pollution by Federal activities, either directly or by contract. This section would require that every Federal agency having jurisdiction over any real property or facility shall take immediate and appropriate steps to insure compliance with applicable Federal, State, and local water quality standards and the purposes of the Federal Water Pollution Control Act in the administration of the property or facility. This section would recognize, however, that this requirement is subject to the availability of appropriations and the needs of the United States, but it is intended that every effort be made

[p. 19]

to carry out its directives and to seek the necessary appropriations to do so. In any summary of a conference made pursuant to section 10 (d) (4) of the Federal Water Pollution Control Act, the Secretary must also include references to discharges which might cause or contribute to the pollution of any waters from Federal property or facilities and transmit a copy of his summary to the appropriate Federal agency head. Also, notice of any hearing under section 10 (f) of the act shall be given to the Federal agency having jurisdiction over the property or facility involved and the finding and recommendations of the hearing board shall include references to the discharges from such Federal facility or property.

Section 11 (b) would require that applicants, other than a Federal agency, seeking a Federal license or permit to conduct any activity of any kind or nature which may result in discharges into the navigable waters of the United States must provide the Federal licensing or permitting agency with a certification from the affected State or States or interstate water pollution control agency that there is reasonable assurance, as determined by that agency, that such activity will be conducted in a manner that will not reduce the quality of such waters below applicable Federal or State or local water quality standards. In any instance where the water quality standards have been promulgated by the Secretary of the Interior under section 10 (c) (2) of the act or where a State agency or interstate agency lacks authority to provide such a certification, then the certification shall be obtained from the Secretary of the Interior. In any case where an activity requires two or more licenses or permits by a single Federal agency or multiple Federal agencies and the applicant receives a certification under this section in connection with any one of those licenses or

permits, then any Federal agency considering an application for a subsequent license or permit for that same activity, such Federal agency may accept the first certification as meeting the requirements of this section if, after notice to the affected State or States or interstate agencies or to the Secretary, as appropriate, no written objection is made to the granting of such license or permit without a subsequent certification. This exception, however, shall not apply to any application for an operating license or permit even if certification was obtained in the issuance of a construction permit or license by a Federal agency for the same activity.

In addition, once a license or permit has been issued it may be suspended if a court of competent jurisdiction subsequently finds that such licensee or permittee is not in compliance with applicable water quality standards. The provisions of this section are intended to apply to renewals of existing licenses or permits for any activities which discharge into the navigable waters of the United States.

In any case where the actual construction of a facility for the conduct of any activity has been lawfully commenced prior to the effective date of this legislation, no certification shall be required under section 11(b) for a Federal license or permit issued after the effective date of this legislation to conduct such activity. Any license or permit issued without the certification, however, shall terminate at the expiration of 2 years following the effective date of this legislation unless prior to such termination date the licensee or permittee submits to the Federal licensing or permitting agency a certification as required under section 11(b). The term "actual construction" is intended to mean the actual

[p. 20]

building, erecting, excavation of a structure or other facility and does not include site acquisition, construction of access roads, engineering, architecture, legal, fiscal, economic investigation and studying, surveying, designing, or planning or other procedures not directly connected with the actual building of the facility.

This section prescribes that no Federal permit or license may be granted except in the manner just mentioned without a certification as prescribed by this section.

Section 4

This section amends section 5 of the Federal Water Pollution Control Act by adding four new subsections and by extending the provisions authorizing appropriations for 2 additional fiscal years at the level of authorization provided for fiscal year 1969, that is $65 million.

Section 5(g) authorizes the Secretary to enter into contracts and

grants with various individuals, agencies, and organizations, for research and development on the problems of lake eutrophication and other lake pollution problems.

Section 5(h) would authorize the Secretary to acquire lands and interests therein by purchase with appropriated or donated funds, by donation, or by exchange, lands or interests therein in connection with development of field laboratories, research facilities, and demonstration projects.

Section 5(i) would direct that the Secretary shall engage in research studies, experiments, and demonstrations by grant, contract, or otherwise, in the prevention and control of oil pollution, including the removal of oil discharges.

Section 5(g) would direct that the Secretary engage in a program of research, studies, experiments, and demonstrations by grants, contracts, or otherwise relative to the equipment which is to be installed on board a vessel and which is designed to receive, retain, treat, or discharge sewage from vessels with particular emphasis on equipment for use on recreational vessels. The Secretary is directed to file a report of his findings prior to the effective date of any standards to be established under section 18 of the act.

Section 5

This section would amend section 6 of the act by extending the authorization for appropriations 2 additional fiscal years at the level of appropriation authorizations for fiscal year 1969, which is $60 million.

Sections 6 and 7

These sections are technical amendments.

Section 8

This section would change the name of the Federal Water Pollution Control Administration to the National Water Quality Administration. The purpose of this change is to provide a more positive approach to the program and to eliminate the negative approach attendant to the idea of control.

[p. 21]

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 as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

AN ACT To provide for water pollution control activities in the Public Health Service of the Department of Health, Education, and Welfare, and for other purposes

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 Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution. The Secretary of Health, Education, and Welfare (hereinafter 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 Health, Education, and Welfare designated by him, shall supervise and direct (1) the head of such Administration in administering this Act and (2) the administration of all other functions of the Department of Health, Education, and Welfare related to water pollution. 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.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

SEC. 2. Effective ninety days after the date of enactment of this section there is created within the Department of Health, Education, and Welfare a [Federal Water Pollution Control Administration] *National 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 Administra-

tion's functions and may for that purpose use funds available for carrying out such functions;

[p. 22]

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.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 3. (a) The Secretary shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution control agencies and interstate 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 conditions 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 Secretary 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 Secretary, 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.

(c) (1) The Secretary 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—

[p. 23]

(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 Secretary 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 State laws relating to 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 relat-

ing 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 Secretary shall conduct in the Department of Health, Education, and Welfare 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 Secretary 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,

[p. 24]

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 Department of Health, Education, and Welfare 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 Secretary 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 Secretary may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and

research and make surveys concerning 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 Secretary shall, in cooperation with other Federal, State, and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and biological 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 Secretary 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 developments; 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.

(e) The Secretary 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.

[p. 25]

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 Secretary 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 prac-

tices 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) The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for 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.

(h) In carrying out the provisions of this section relating to the conduct by the Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary 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 Secretary as the circumstances require.

(i) The Secretary shall 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, and shall publish from time to time the results of such activities. In carrying out this subsection, the Secretary may enter into contracts with, or make grants to, public or private organizations and individuals.

(j) The Secretary 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 shall report to Congress the results of such research, studies, experiments and demonstrations prior to the effective date of any standards established under section 18 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.

[(g)](*k*) (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

[p. 26]

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 supplement existing information in representative estuaries and estuarine zones and indentify 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, [and June 30, 1969,], *June 30, 1969, and June 30, 1970,* 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 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.

[(h)](*l*) There is authorized to be appropriated to carry out this section, other than subsection [(g)](*k*), not to exceed $60,000,000 for the fiscal year ending June 30, 1968, [and $65,000,000 for the fiscal year ending June 30, 1969] *and $65,000,000 per fiscal year for each of the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971.* Sums so appropriated shall remain available until expended.

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Secretary 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 water or both storm water and sewage or other wastes, or

[p. 27]

(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 Secretary 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) 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 Secretary; and

(3) No grant shall be made for any project under this section unless the Secretary 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

(3) No grant shall be made for any project unless the Secretary 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 [three] *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 [two] *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 [two] *four* succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in subsection (b).

[p. 28]

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 Secretary 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) From each State's allotment under subsection (c) for any fiscal year the Secretary 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.

(e) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to interstate agencies, in accordance with regulations, on such basis as the Secretary 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.

(f) The Secretary 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 Secretary 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;

[p. 29]

(4) provides for extention or improvement of the 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 Secretary 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.

(g) (1) Whenever the Secretary, 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 Secretary 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 Secretary 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 Secretary'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 members 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 Secretary, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary 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 Secretary 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 shares" shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on

[p. 30]

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 availble 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 Secretary 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 Secretary may find necessary.

(2) The Secretary 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 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 Secretary may determine.

GRANTS FOR CONSTRUCTION

SEC. 8. (a) The Secretary 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 Secretary 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

[p. 31]

reasonable cost thereof as determined by the Secretary; (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 Secretary for assuring proper and efficient operation 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 Secretary) 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 Secretary) 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 accordance with section 10 (c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

(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 Secretary 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 subsection (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 allotted by the Secretary 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 Secretary 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 sentences which are not obligated

[p. 32]

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 Secretary, 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: *Provided, however,* That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project 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, except 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 Secretary finds meets the requirements of this section but was constructed without 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 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 finding by the Secretary 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 3, 1969; $1,000,000,000 for the fiscal year ending June 3, 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.

(e) The Secretary 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 Secretary 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 statistical 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 Secretary 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

[p. 34]

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. 1494; 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).

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 9. (a) (1) There is hereby established in the Department of Health, Education, and Welfare, a Water Pollution Control Advisory Board, composed of the Secretary or his designee, who shall be chairman, and nine members appointed by the President, none of whom 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 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 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 but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceding 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 at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, 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 Secretary on matters of policy relating to the activities and functions of the Secretary under this Act.

[p. 35]

(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 Department of Health, Education, and Welfare.

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 intersate 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 or 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 waters 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 Secretary 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 paragraphs (1) of this subsection, or of the Secretary or the Governor of any State affected by water quality standards established pursuant to this subsection desires a revision in such standards, the Secretary 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 Secretary publishes such regulations, the State has not adopted water quality standards found by the Secretary 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 Secretary 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 Secretary, 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.

(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 Secretary for a hearing,

[p. 36]

the Secretary 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 Secretary. 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 Department of Health, Education, and Welfare. 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 Secretary, 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 so whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the Hearing Board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the standards as published or promulgated by the Secretary, the Secretary 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 parargaph (1) or (2) of subsection (g) as authorized by this subsection, the Secretary shall notify 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 recommendations of the conference and Hearing Board and the recommendations and standards promulgated by the Secretary, 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 a determination of all other issues relating to the alleged violation. The court, giving due consideration to the practicability and to the physical and economic feasibility of complying with such

[p. 37]

standards, shall have jurisdiction to enter such judgment and orders

enforcing such judgment as the public interest and the equities of the case 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 a 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 Secretary 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 Secretary 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 Secretary, 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 Secretary 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 substantial 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 Secretary, 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 Secretary, 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 repre-

[p. 38]

sentative 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 Secretary 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 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 Secretary 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 Secretary 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 Secretary shall allow at least 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 Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary 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 Secretary. 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 Department of Health, Education, and Welfare. 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.

[p. 39]

On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether pollution referred to in subsection (a) is occurring and 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 Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution. The Secretary shall send such findings and 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 Secretary 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 Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. 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 Secretary 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 Secretary 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 Secretary—

(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 (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

[p. 40]

(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 case 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 Secretary, 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.

(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 Secretary 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 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 Secretary 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.

[COOPERATION TO CONTROL POLLUTION FROM FEDERAL INSTALLATIONS

[SEC. 11. It is hereby declared to be the intent of the Congress that any Federal department or agency having jurisdiction over any building, installation, or other property shall, insofar as practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of Health, Education, and Welfare, and with any State or interstate agency or municipality having jurisdiction over waters into which any matter is discharged from such property, in preventing or controlling the pollution of such waters. In his summary of any conference pursuant to section 10 (d) (3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 10 (f) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board.]

COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

SEC. *11. (a) Each Federal agency having jurisdiction over any real property or facility of any kind shall, within available appropriations and consistent with the interests of the United States, insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property or facility. In his summary of any conference pursuant to section 10 (d) (4) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property or facility, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property or facility. 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 or facility involved, and the findings and recommendations of the hearing board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such board.*

(b) Any applicant for a Federal license or permit to conduct any activity which may result in discharges into the navigable waters of the United States shall provide the licensing or permitting agency with certification from each affected State or interstate water pollution control agency 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 reduce the quality of such waters below applicable water quality

[p. 42]

standards. In any case where such standards have been promulgated by the Secretary 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 Secretary. If an applicant for a Federal license or permit receives a certification under this subsection in connection with such application, then the Federal agency to whom such application is made, and any other Federal agency may accept such certification for the purposes of this subsection in connection with any other application made to it by such applicant for a license or permit, except that (1) if any affected State or the Secretary, if his certification is involved, after notice, which shall be given by such Federal agency, makes written objection, such certification may not be so accepted, and (2) this sentence shall not apply to any application for an operating license or permit. No license or permit shall be granted until such certification has been obtained. In any case where actual construction of a facility for the conduct of any activity has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1969, no certification shall be required under this subsection for a license or permit issued after the date of enactment of the Water Quality Improvement Act of 1969 to conduct such activity, except that any such license or permit issued without certification shall terminate at the end of the two-year period beginning on the date of enactment of the Water Quality Improvement Act of 1969 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 which otherwise meets the requirements of this subsection. Such license or permit may be suspended if a court of competent jurisdiction finds that such licensee or permittee is not in compliance with applicable water quality standards. Nothing in this section shall be construed to limit any other authority pursuant to this Act or any other provision of State or Federal law to require compliance with applicable water quality standards. No Federal agency shall be deemed to be an applicant for the purposes of this subsection. The Secretary shall, upon the request of any State or Federal department or agency, provide any technical assistance to

such department or agency for the purpose of carrying out this section.

ADMINISTRATION

SEC. 12. (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Secretary, 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 Department of Health, Education, and Welfare 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 Secretary 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.

[p. 43]

(c) The Secretary of Health, Education, and Welfare 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.

DEFINITIONS

SEC. 13. 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 an Indian tribe or an authorized Indian tribal organization.

OTHER AUTHORITY NOT AFFECTED

SEC. 14. 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 [the Oil Pollution Act, 1924, or] 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.

SEPARABILITY

SEC. 15. 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. 16. (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 Secretary, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall make a detailed estimate of the cost of carrying out the provisions 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 Secretary shall submit such detailed estimate

[p. 44]

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.

[SEC. 17. The Secretary of the Interior shall, in consultation with the Secretary of the Army, the Secretary of the department in which the Coast Guard is operating, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, conduct a full and complete investigation and study of the extent of the pollution of all navigable waters of the United States from litter and sewage discharged, dumped, or otherwise deposited into such waters from watercraft using such waters, and methods of abating either in whole or in part such pollution. The Secretary shall submit a report of such investigation to Congress, together with his recommendations for any necessary legislation, not later than July 1, 1967.

[SEC. 18. The Secretary of the Interior shall conduct a full and complete investigation and study of methods for providing incentives designed to assist in the construction of facilities and works by industry designed to reduce or abate water pollution. Such study shall include, but not be limited to, the possible use of tax incentives as well as other methods of financial assistance. In carrying out this study the Secretary shall consult with the Secretary of the Treasury as well as the head of any other appropriate department or agency of the Federal Government. The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than January 30, 1968.]

CONTROL OF POLLUTION BY OIL AND OTHER MATTER

SEC. 17. *(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, and oil refuse, but does not include oil mixed with dredged spoil;

(2) "matter" means any substance of any description or origin, other than oil, dredged spoil, and human body wastes and the wastes from toilets and other receptacles intended to receive or retain human body wastes, which, when discharged into the navigable waters of the

United States or the waters of the contiguous zone in substantial quantities, presents, in the judgment of the Secretary, an imminent and substantial hazard to public health or welfare, including fish, shellfish, and wildlife, and shorelines and beaches, but such term does not include byproduct material, source material, and special nuclear material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2013).

(3) "discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(4) "remove or removal" refers to the taking of reasonable and appropriate measures to mitigate the potential damage of the discharge of oil or matter to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches;

(5) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(6) "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 or political subdivision thereof, except where such vessel is engaged in commercial activities;

(7) "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;

(8) "owner or operator" means any person owning, operating, or chartering by demise, a vessel;

(9) "person" includes an individual, firm, corporation, association, or a partnership, except individuals or board public vessels; and

(10) "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.

(b) Any individual in charge of a vessel (other than a public vessel) or of an onshore or offshore facility of any kind (other than one owned or operated by the United States, a State, or any political subdivision of a State) at the time of any discharge of oil or matter from such vessel or facility in substantial quantities into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, shall, as soon as he has knowledge of such discharge, immediately notify either the Secretary, or the Secretary of the department in which the Coast Guard is operating of such discharge. Any such individual who fails to notify immediately such delegate of any such discharge of oil or matter into or upon

such waters, shorelines, or beaches, shall, upon conviction, be fined not more than $5,000, or imprisoned for not more than one year, or both.

(c) (1) Except in case of an emergency imperiling life, or an act of war or sabotage, or an unavoidable accident, collision, or stranding, or an act of God, or except as otherwise permitted by regulations issued by the Secretary under this section, or except where otherwise not prohibited in the contiguous zone under the provisions of article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, any owner or operator who, either directly or through any person concerned in the operation, navigation, or management of the vessel, discharges or permits the discharge of oil or matter from a vessel in substantial quantities into or upon the navigable waters of the United

[p. 46]

States or adjoining shorelines and beaches of the United States, or into or upon the waters of the contiguous zone if such oil or matter threatens to pollute or contribute to the pollution of the territory or the territorial sea of the United States, shall be subject to the penalties provided in this subsection.

(2) Any owner or operator who, or any vessel (other than a public vessel) which, willfully or negligently, discharges oil or matter in substantial quantities in violation of paragraph (1) 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, operator, or vessel 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 of the vessel 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 district director of customs at the port or place of departure from the United States 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 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. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the district court of the United States for any district within which such vessel may be found.

(d) (1) Whenever any oil or matter is discharged into or upon any waters, shorelines, or beaches, the United States shall remove or ar-

range for the removal thereof, in accordance with the regulations prescribed under subsection (g) of this section, when, in the judgment of the Secretary, such oil or matter presents an actual or threatened pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife, or to public or private shorelines and beaches in the United States, unless other adequate arrangements for removal of such oil or matter have been made as required by subsections (e) (1), (f) (1) or (f) (2) of this section.

(2) 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 matter 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 expenditure of appropriated funds. The expense of removing any such vessel, the negligent operation of which caused or contributed to the marine disaster, shall be a charge against such vessel and its cargo and the owner or operator of such vessel. If the owner or operator thereof fails to reimburse the United States for such expense within 30 days after notification thereof, the United States may sell the vessel or cargo or any part that may not have been destroyed

[p. 47]

in removal, and the proceeds of such sale shall be deposited in the fund established in subsection (h) of this section.

(e) (1) The owner or operator of any vessel who, either directly or through any person concerned in the operation, navigation, or management of the vessel, willfully or negligently discharges or permits or causes or contributes to the discharge of oil or matter into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone if the Secretary of the department in which the Coast Guard is operating finds that such oil or matter threatens to pollute or contribute to the pollution of the territory or the territorial sea of the United States shall immediately remove such oil or matter from such waters, shorelines, and beaches in accordance with regulations prescribed under subsection (g) of this section. If the United States removes oil or matter which was willfully or negligently discharged by such owner or operator, the vessel and such owner or operator shall be liable to the United States

for the full amount of the costs reasonably incurred under this subsection for the removal of the oil or matter, except that, notwithstanding any other provision of law, with respect to each offending vessel and the owner or operator thereof the aggregate liability for the cost of removal shall not exceed $10,000,000 or $100 per gross registered ton of such offending vessel, whichever is the lesser amount, in the case of such a willful or negligent discharge. The district director of customs at the port or place of departure from the United States shall withhold at the request of the Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of a vessel, other than a public vessel, liable for such costs until such costs are paid or until a bond or other surety satisfactory to the Secretary is posted. 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 such vessel may be found. The United States may bring action against the owner or operator in any court of competent jurisdiction to recover such costs. The United States shall also have a cause of action under this paragraph against any owner or operator of a vessel whose willful act or negligence is found to have caused or contributed to the discharge of oil or matter from a vessel involved in a collision or other casualty.

(2) In any action instituted by the United States under this subsection, subsection (c), or subsection (f) of this section, evidence of a discharge of oil or matter shall constitute a prima facie case of liability to the United States on the part of the owner or operator of the vessel or the person owning or operating the facility, as the case may be, and the burden of rebutting such prima facie case shall be upon such owner or operator or person, as the case may be. The burden of rebutting the prima facie case of liability which the United States shall have against a vessel or the owner or operator thereof, or against a person who owns or operates an onshore or offshore facility, from which the oil or matter is discharged shall in no way affect any rights which such owner or operator or person may have against any other vessel or facility or owner or operator or other persons whose willful act or negligence may in any way have caused or contributed to such discharge.

(f) (1) Any person who owns or operates an onshore facility of any kind (other than a facility owned or operated by the United States, a State, or a political subdivision of a State) who, either directly or through any other person concerned in the operation or management of such facility, willfully

[p. 48]

or negligently discharges or permits the discharge of oil or matter

into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, or into or upon the waters beyond such zone, shall immediately remove such oil or matter from such waters, shorelines, and beaches in accordance with regulations prescribed under subsection (g) of this section.

(2) Any person who owns or operates any offshore facility of any kind (other than a facility owned or operated by the United States, a State, or a political subdivision of a State) which facility is located offshore but within the seaward boundary (within the meaning of the Submerged Lands Act (43 U.S.C. 1301 et sec.)) of a State, who, either directly or through any other person concerned in the operation or management of such facility, willfully or negligently discharges or permits the discharge of oil or matter into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, or into or upon the waters beyond such zone, shall immediately remove such oil or matter from such waters, shorelines, and beaches in accordance with regulations prescribed under subsection (g) of this section.

(3) If the United States removes any oil or matter required by paragraphs (1) and (2) of this subsection to be removed by any other person, such person shall be liable to the United States for the full amount of the costs reasonably incurred for the removal of such oil or matter except (A) that the aggregate liability for the costs of a removal shall not exceed $8,000,000, and (B) that the Secretary shall, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, establish reasonable and equitable classifications of onshore facilities and activities and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph. This paragraph shall not apply to any onshore facility until it shall come within a classification established by the Secretary under the preceding sentence, but no such classification shall be established without at least sixty days notification to Congress of such intended classification. The United States may bring action against any such person in any court of competent jurisdiction to recover such costs.

(4) Nothing in this subsection 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 matter into any waters within such State.

(g) (1) Within sixty days after the effective date of this section and from time to time thereafter—

(A) the Secretary shall issue regulations, in consultation with the Secretary of the department in which the Coast Guard is op-

erating and consistent with maritime safety and with marine and navigation laws, establishing environmental quality criteria relating to the methods and procedures for removal of discharged oil and matter;

(B) the Secretary of the department in which the Coast Guard is operating shall issue regulations, in consultation with the Secretary, establishing procedures, methods, and equipment (i) to prevent discharges of oil from vessels, and (ii) consistent with regulations of the Secretary, to remove discharged oil or matter.

(2) Any owner or operator required under subsection (e), and any person required under subsection (f), to remove any oil or matter from any waters, shorelines, or beaches in accordance with regulations pre-

[p. 49]

scribed under this subsection who violates 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 Secretary of the department in which the Coast Guard is operating may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or 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 person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by such Secretary.

(h) (1) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $20,000,000 to carry out the provisions of subsection (d) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes, except that such funds shall be available to reimburse a State or political subdivision thereof that assists in the removal of any discharged oil or matter. All sums appropriated to, or deposited in, said fund shall remain available until expended.

(2) For the purpose of insuring the efficient and economic removal of oil or matter under subsection (d) of this section, the President shall within ninety days after the effective date of this subsection delegate to the Secretary of the department in which the Coast Guard is operating, to the Secretary, to the Secretary of Defense, and to other appropriate Federal agencies, all or part of the responsibility under subsection (d) of this section for removing discharged oil or other matter, in accordance with a national contingency plan or revision thereof, approved by the President. The Secretary of the depart-

ment in which the Coast Guard is operating is authorized to make available to such Federal agencies from the fund established by paragraph (1) of this subsection such sums as may be necessary to effectuate such removal. Each such agency, in order to avoid duplication of effort, shall, whenever practicable, utilize the personnel, services, and facilities of other Federal and State agencies.

(3) The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating and consistent with maritime safety and with marine and navigation laws and regulations, may issue regulations authorizing the discharge of oil or matter from a vessel in quantities, under conditions, and at times and locations deemed appropriate by him, after taking into consideration various factors such as the effect of such discharge on applicable water quality standards, recreation, and fish and wildlife.

(4) The provisions of subsection (c) of this section and the regulations issued under subsection (g) of this section shall be enforced 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 may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or State agency in carrying out these provisions and regulations.

(5) 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, (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,

[p. 50]

and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(6) 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 Somoa 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.

(i) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel or onshore facility or offshore facility under any provision of law for damages to any publicly or privately owned property from a discharge of oil or matter or from the removal of any oil or matter.

(j) Nothing in this section shall be construed as authorizing the Secretary or the Secretary of the department in which the Coast Guard is operating to regulate the operations or construction of any onshore or offshore facility, or as affecting or modifying any other existing authority of either Secretary relative to such facilities under this Act or any other provision of law.

(k) (1) Any vessel over one hundred gross registered tons, including any barge of equivalent size, 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 appropriate delegate of the President, evidence of financial responsibility to meet the maximum potential liability to the United States which such vessel could be subjected under this section for willful or negligent discharges of oil or matter. 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 delegate of the President: (A) policies of insurance, (B) surety bonds, (C) qualifications 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 effective date of this section. Regulations necessary to implement this subsection shall be issued within six months after the effective date of this section.

(3) The Secretary of Transportation, in consultation with the Secretaries of Interior, 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 limitations 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

[p. 51]

(C) other measures for limitations of liability of such facilities;

for the cost of removing discharged oil or matter and paying all damages resulting from the discharge of such oil or matter. The Secretary of Transportation shall submit a report, together with any legislative recommendations, to Congress and the President by January 1, 1971.

"CONTROL OF SEWAGE FROM VESSELS

"SEC. *18.* (*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, by a State or political subdivision thereof, or by a foreign nation or by a political subdivision thereof, except where such vessel is engaged in commercial activities;*

(*4*) *"United States" includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;*

(*5*) *"marine sanitation device" means any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge 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" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.*

(*b*) *As soon as possible after the enactment of this section, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, and after giving appropriate con-*

sideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereinafter 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,

[p. 52]

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 maritime sanitation device on board such vessels.

(c) (1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; but not earlier than December 31, 1971, 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 and the Secretary of the department in which the Coast Guard is operating with regard to their respective regulatory authority established by this section, 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, and, upon application, for individual vessels.

(d) The provisions of this section and the standards and regulations promulgated thereunder 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 subsection (b) and certifications under subsection (g) (2) of this section shall be promulgated and issued by the Secretary of Defense and not by the Secretary of the department in which the Coast Guard is operating.

(e) Before the standards and regulations under this section are promulgated, the Secretary 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) 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 of any marine sanitation device on any vessel subject to the provisions of this section, except that nothing in this section shall be construed to affect or modify the authority or jurisdiction of any State to prohibit discharges of sewage whether treated or not from a vessel within all or part of the intrastate waters of such State if discharges from all other sources are likewise prohibited.

(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

[p. 53]

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 Secretary as to standards of performance and for such other purposes as may be appropriate if such results are in accordance with the appropriate performance standards promulgated under this section, and 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 Secretary 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 Secretary 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 Secretary 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 jurisdiction to restrain violations of subsection (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the

[p. 54]

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 clauses (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 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 Secretary, 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, 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.

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

SEC. *19. (a) The Secretary, in cooperation with other Federal agencies 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 Secretary, 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

[p. 55]

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, 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 appropriated under this section in any one year shall be granted to any one State.

TRAINING GRANTS AND CONTRACTS

SEC. *20. The Secretary 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 GRANTS OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

SEC. *21.* (1) *A grant or contract authorized by section 20 may be made only upon application to the Secretary 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 20, and describes the*

[p. 56]

relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 22;

(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 Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.*

(2) *The Secretary shall allocate grants or contracts under section 20 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 purposes of this section.*

(3) (A) *Payment under this section may be used in accordance with regulations of the Secretary, 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, other than 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).

SEC. *22. (1) The Secretary 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 Secretary may determine but not to exceed four academic years.*

(2) The Secretary 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 Secretary 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;

[p. 57]

(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 20 of this Act; and

(D) that the application contains satisfactory assurances that

(i) the institution will recommend to the Secretary 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 Secretary 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 Secretary 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 Secretary 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 Secretary by or pursuant to regulation.

(6) The Secretary 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 Secretary determines appropriate.

DEFINITIONS

SEC. 23. (1) As used in sections 20 through 23 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 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 Secre-

tary for this purpose. For purposes of this subsection, the Secretary 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.

[p. 58]

(C) The term "academic year" means an academic year or its equivalent, as determined by the Secretary.

(2) The Secretary shall annually report his activities under sections 20 through 23 of this Act, including recommendations 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 20 through 23 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 20 through 23 of this Act during that year and the succeeding fiscal year.

SHORT TITLE

SEC. [19] *24.* This Act may be cited as the "Federal Water Pollution Control Act".

OIL POLLUTION ACT, 1924

[That this Act may be cited as the "Oil Pollution Act, 1924".

[SEC. 2. When used in this Act, unless the context otherwise requires—

[(1) "oil" means oil of any kind or in any form, including fuel oil, sludge, and oil refuse;

[(2) "person" means an individual, company, partnership, corporation, or association; any owner, operator, master, officer, or employee of a vessel; and any officer, agent or employee of the United States;

[(3) "discharge" means any grossly negligent, or willful spilling, leaking, pumping, pouring, emitting, or emptying of oil;

[(4) "navigable waters of the United States" means all portions of the sea within the territorial jurisdiction of the United States, and all inland waters navigable in fact; and

[(5) "Secretary" means the Secretary of the Interior.

[SEC. 3. (a) Except in case of emergency imperiling life or property, or unavoidable accident, collision, or stranding, and except as other-

wise permitted by regulations prescribed by the Secretary as hereinafter authorized, it is unlawful for any person to discharge or permit the discharge from any boat or vessel of oil by any method, means, or manner into or upon the navigable waters of the United States, and adjoining shorelines of the United States.

[(b) Any person discharging or permitting the discharge of oil from any boat or vessel, into or upon the navigable waters of the United States shall remove the same from the navigable waters of the United States, and adjoining shorelines immediately. If such person fails to do so, the Secretary may remove the oil or may arrange for its removal, and such person shall be liable to the United States, in addition to the penalties prescribed in section 4 of this Act, for all costs and expenses reasonably incurred by the Secretary in removing the oil from the navigable waters of the United States, and adjoining shorelines of the United States. These costs and expenses shall constitute a lien on such boat or vessel which may be recovered in proceedings by libel in rem.

[p. 59]

[(c) The Secretary may prescribe regulations which—

[(1) permit the discharge of oil from boats or vessels in such quantities under such conditions, and at such times and places as in his opinion will not be deleterious to health or marine life or a menace to navigation, or dangerous to persons or property engaged in commerce on navigable waters of the United States; *and*

[(2) relate to the removal or cost of removal, or both, of oil from the navigable waters of the United States, and adjoining shorelines of the United States.

[SEC. 4. (a) Any person who violates section 3 (a) of this Act shall, upon conviction thereof, be punished by a fine not exceeding $2,500, or by imprisonment not exceeding one year, or by both such fine and imprisonment for each offense.

[(b) Any boat or vessel other than a boat or vessel owned and operated by the United States from which oil is discharged in violation of section 3 (a) of this Act shall be liable for a penalty of not more than $10,000. Clearance of a boat or vessel liable for this penalty from a port of the United States may be withheld until the penalty is paid. The penalty shall constitute a lien on such boat or vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which such boat or vessel may be.

[SEC. 5. The Commandant of the Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46

U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any boat or vessel found violating the provisions of section 3 of this Act.

[SEC. 6. In the administration of this Act the Secretary may, with the consent of the Commandant of the Coast Guard or the Secretary of the Army, make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed by the Coast Guard or the Department of the Army, respectively, for the preservation and protection of navigable waters of the United States. For the better enforcement of the provisions of this Act, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary of the Army, and persons employed by the Secretary, and officers of the Customs and Coast Guard of the United States shall have the power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of such provisions, except that no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid persons. Whenever any arrest is made under the provisions of this Act the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him and such commissioner, judge or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States.

[SEC. 7. This Act shall be in addition to other laws for the preservation and protection of navigable waters of the United States and shall not be construed as repealing, modifying, or in any manner affecting the provisions of such laws.]

[p. 60]

1.2k(2) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 91-351, 91st Cong., 1st Sess. (1969)

AMENDING THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, AND FOR OTHER PURPOSES

AUGUST 7 (legislative day, AUGUST 5), 1969.—Ordered to be printed

---

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

REPORT

[To accompany S. 7]

The Committee on Public Works, to which was referred the bill (S. 7), having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

INTRODUCTION

S. 7, as reported, includes three titles, the first two of which would amend the Federal Water Pollution Control Act, establish an environmental policy for Federal public works projects and provide for the establishment of an Office of Environmental Quality.

Title I of this legislation would provide specific approaches for dealing with particular kinds of water pollution problems and directing that additional studies be made with regard to some of their more complex aspects.

For the first time the President would have power and authority to deal with disastrous oil spills which threaten serious injury to the Nation's waters and beaches.

The bill also breaks new ground by requiring compliance with water quality standards by all activities over which the Federal Government has direct control or for which Federal licenses or permits are required. Discharges of sewage from vessels which foul many of the Nation's marinas, harbors, and ports will be subject to control measures.

Authority would be provided to designate those hazardous substances, the discharge of which into the Nation's waters, presents a substantial endangerment to health and welfare.

Authorizations for continued research under the act are provided as is new authority to solve specific pollution problems caused by

eutrophication (the natural process of aging of lakes) and acid mine drainage.

[p. 1]

Title II of this bill sets forth a fundamental procedure to coordinate Federal, and federally assisted public works activities to assure adequate consideration of the environmental policies set by the Water Quality Act, the Air Quality Act, and the Solid Waste Disposal Act. This title of S. 7, as reported, is designed to bring coherent and integrated management of those environmental policies into the programs of the Federal Government.

Title III includes provisions for acquiring land for use of the U.S. Senate.

The provisions, their ramifications and the intent of the committee will be discussed in detail by title.

[p. 2]

DISCUSSION OF BILL

TITLE I.—WATER QUALITY IMPROVEMENT ACT OF 1969

GENERAL STATEMENT

When the Congress adjourned last year, S. 3206, legislation similar to this bill, was a part of its unfinished business. S. 7, the Water Quality Improvement Act of 1969, was drafted to clarify some misconceptions about its predecessor and to incorporate provisions passed in both the House and the Senate versions of the bill. Except for deletion of the financing provision of last year's bill, the bill, as introduced, followed the essential pattern of S. 3206.

Title I of this year's legislation is designed to deal with three major sources of pollution which continue to damage our water resources: oil pollution, vessel pollution, and thermal pollution.

Frequent oil spills from vessels and from on- and off-shore facilities have ruined beaches and lowered the quality of our rivers and shore waters and have jeopardized animal and vegetable life. The spills from the *Torrey Canyon* and the *Ocean Eagle* have been spectacular examples of this danger, but the damage from repeated but unpublicized lesser incidents and intentional dumping is steadily increasing. This can no longer be tolerated.

Too often, the Government has been unable to respond quickly enough to control the situation, or has not been informed of the incident. Frequently, the offenders have made no attempt to clean up the spill and have gone unpunished. This bill attempts to correct these deficiencies.

As pleasure boating becomes an increasingly popular recreation, more and more untreated sewage is dumped into our rivers, lakes, and coastal waters. Combined with increased wastes from commercial vessels, this pollution has created health hazards in waters previously known for their beauty and high quality.

Those who benefit from our water resources for trade or recreation must also accept the responsibility for preserving and enhancing water quality. Title I, the Water Quality Improvement Act provides for the establishment of standards of performance for vessel waste treatment systems to prevent the discharge of untreated or inadequately treated sewage from these sources.

This bill recognizes the responsibility of Federal agencies to protect water quality wherever their activities affect public waterways.

For example, while thermal pollution which can seriously and adversely affect the ecological balance of the receiving waters can be controlled, the Atomic Energy Commission does not consider these factors in passing on the site selection, construction, and design or operation of nuclear powerplants.

Under the terms of S. 7, no Federal agency shall issue a license or permit for any activity which may affect water quality until it receives certification from the State in which the discharge originates that the proposed activity will be designed to insure compliance with applicable water quality standards. In the past, these licenses and permits have been granted without any assurance that the standards will be met or even considered.

[p. 3]

In the past 6 years, Congress has maintained that the effort to clean up our Nation's waters requires the most urgent commitment of organization, planning, engineering skill, and funds directed toward improvement of the quality of our environment. We have acknowledged the need for clean water in the broadest sense. But the demand for clean water is so great and is growing so rapidly that we cannot afford to overlook any opportunity to increase the available supply of water, or to prevent and control sources of pollution which threaten the existing supply.

MAJOR PROVISIONS OF TITLE I

The major provisions of title I include:

(1) Authority to set Federal standards for the performance of marine sanitation devices to control sewage discharges from vessels;

(2) Amendments to Federal oil pollution law to provide centralized authority to clean up oil spills regardless of source and,

if such cleanup is performed by the Federal Government, provision for recovery of cost;

(3) Provision to insure compliance with water quality standards by Federal licensees and permittees which will require preconstruction water quality planning and eliminate the potential of Federal participation in activities which are inconsistent with the Nation's water quality programs; and

(4) Provision for identification, designation, and cleanup of discharge of hazardous substances other than oil;

(5) Extension of research authorizations in basic law and addition of four new areas of research emphasis: acid-mine drainage, lake eutrophication, control of pollution in the Great Lakes, and oil-pollution removal.

OIL POLLUTION

S. 7 as introduced would have provided for liability on vessels and on- and offshore facilities to be based on a test of negligence with the burden of proof on the owner or operator of the vessel or on- or offshore facility to prove that any discharge of oil was not the result of negligence.

Also the legislation would have assessed liability for any vessel to a limit of $450 per gross ton or $15 million, whichever the lesser, and, for on- and offshore facilities, $15 million. The figure of $450 per gross ton was based on information provided by the Federal Water Pollution Control Administration, indicating that the cost of clean up of a barrel of oil was approximately $75 and that projected to a gross ton (six to seven barrels of oil) would be approximately $450. The $15 million figure established for onshore and offshore facilities was intended to reflect the potentially catastrophic costs associated with an uncontrolled blow-out from an oil well.

Evidence provided by witnesses indicated that while the cost computation of clean up of a given barrel of oil might average $75, the likelihood of any single vessel, even in the most catastrophic disaster, discharging its entire cargo was remote. The figure finally decided upon by the Committee, $125 per gross ton, would be ade-

[p. 4]

quate to pay the clean up cost for the largest and most disastrous of oil spills on record.

The type of liability to be imposed presented the committee with a great many questions. Extensive testimony was taken and subsequent extensive discussion occurred in executive session on the factors which should be considered in determining the type of liability. Among those factors were (1) the effect of too rigid a liability test

on maritime commerce; (2) the availability of insurance for any specific amount or type of liability; (3) the economic impact of any specific amount of liability on the owner of the vessel, the shipper of the oil and the consumer; and (4) the impact of a burdensome liability test on the U.S. Government and the people of the United States.

The committee determined, on the basis of the best information available, including the general lack of relationship between the person affected by an oil discharge and the operation of the discharging source, that some form of absolute liability should be imposed.

It has been suggested that absolute liability is in conflict with the basic body of American maritime law and that a shipper would be held responsible for circumstances over which he has no control.

Heretofore, maritime liability has related to a vessel, its cargo, and its employees. Insurance covers the hull, the cargo, personal injury, and death, and has been designed to protect people who either work for, use, own or operate a vessel. Were this the case with oil pollution, the imposition of liability based on negligence would not be questioned. However, the discharge of oil can and usually does affect the general public, and persons and property wholly unrelated to the vessel, who have no control over it, and who have no interest in it.

The public interest, it can be argued, can be completely protected only by absolute and unlimited liability; negligent and limited liability would protect only private interests. If the Congress were to impose negligence as the test, it would follow that there should be no limits on such liability.

Under absolute liability with limits, a vessel owner would be absolutely liable regardless of fault, but the injured party would be limited in the amount of the damages which could be collected. This approach avoids the difficult, if not impossible, task of proving negligence or rebutting the case for nonnegligence made by the vessel owner. It also places the risk on the responsible party, not on the general public.

It should be noted that the insurance industry and the oil industry testified that they could not imagine a circumstance where a discharge of oil would occur without some degree of negligence. Therefore, it appears that negligent liability with a reverse burden of proof and absolute liability are similar in practical application. The practical advantage to absolute liability, of course, is that it would avoid litigation with the vessel owner on the question of responsibility.

The oil pollution section deals only with the matter of clean up of discharges and costs associated therewith. The bill in no ways affects the rights of third parties against the party causing the discharge.

After deciding on the nature of liability, the committee then considered the circumstances under which a vessel owner or on- or offshore facility owner should be exempt from the imposition of such

liability. The committee determined that one obvious area over which

[p. 5]

an owner or operator would have no control would be a discharge caused solely by an act of war.

Another area which the committee believed to be beyond the control of an owner or operator would be any discharge caused solely by an act of God about which the owner could have no foreknowledge, could make no plans to avoid, or could not predict. Under this exception, only discharges resulting from grave natural disasters, which could not be anticipated in the design, location or operation of the facility or vessel by reason of historic, geologic, or climatic circumstances or phenomena, would be outside the scope of the owner's or operator's responsibility.

It was brought to the attention of the committee that there have been circumstances in which a negligent act of Government caused or contributed to the discharge of oil. The committee determined that an owner or operator should not be held liable if he could prove that such act of U.S. Government negligence was the sole cause of a discharge. Examples of this type of situation would include a negligently placed marker buoy in a channel, a well lighted and marked offshore oil facility in the navigable waters rammed by a U.S. vessel, or a tank farm into which a military aircraft crashed.

Finally, the committee considered the question of a discharge which occurred solely due to an act of a third party. Among such acts would be a discharge caused when a vessel collided with another vessel which was secured to a dock.

The committee determined that while the owner or operator should not be liable if he could prove that a discharge was caused by one of these acts, it was also necessary that such exceptions be allowed only when the owner or operator proved the discharge to be solely the result of one of the exceptions. Any culpability on the part of the owner or operator would vitiate the exception.

This legislation recognizes the greater need to protect the public against disastrous oil spills such as the continuing oil leak off the coast of California at Santa Barbara. Senate action in 1967 followed the *Torrey Canyon* incident. The *Torrey Canyon* disaster resulted in cleanup costs of approximately $7,200,000 or approximately $118 per gross ton of the vessel. Since that time the *Ocean Eagle* which broke up in San Juan Harbor involved cleanup costs of approximately $700,000. Cleanup associated with breakup of the *General Colcotronis* off the Bahamas in 1968 cost $800,000. While the final costs of the Santa Barbara blowout are unavailable, present estimates indicate

that the costs related to the cleanup of that ongoing spill are in excess of $3.4 million.

The committee recognizes that fortunately there has been no discharge of oil from a vessel, affecting the coastal waters of the United States, which approaches the liabilities imposed by this bill. The committee, however, believes that the risk of such spills must be considered together with the possibility of major catastrophic discharges from onshore or offshore facilities or from oil drilling operations.

The committee recognizes that the limits established in this bill are not based on experience. As more information on costs of cleanup is developed, the committee expects to consider revisions of those limits.

[p. 6]

Two factors influenced the decision of the committee relating to the level of the limit of liability: First, the increasing volume of oil being handled by an increasing number of vessels and facilities enhances the risk of major disaster, and, second, the protection of our vital water resources and shorelines is more and more imperative.

At the present time the United States has neither the administrative nor the financial authority to deal with such catastrophic events. But it is not solely the catastrophic disaster with which the committee is concerned. Incident after incident of careless, accidental, and negligent oil discharges occur every year in the United States. The latest information on spills sets forth 92 discharges of oil and other hazardous substances since January of this year. (See table on p. 59.) The cost of cleanup of these discharges has not been computed. In some cases the total effects are not known. But the evidence is clear that these discharges of oil cannot be allowed to continue without some method of assessing the liability of those who discharge that oil. While the legislative approach is complex, the intent of the committee is clear. The legislation is designed to encourage preventive action to eliminate discharges of oil wherever possible and to provide adequate authority to clean up those discharges which do occur and assess the cost on the responsible party if the Federal Government is required to exercise its cleanup authority.

FEDERAL ACTIVITIES COMPLIANCE

Repeatedly during hearings in Washington and throughout the country, representatives of local governments, industrial concerns, community and conservation groups, and the public have questioned the justification for requiring compliance with water quality standards in their activities while Federal agencies do not comply with those standards.

The committee recognizes that while the Federal Government has been charged with the responsibility to take a leadership role in controlling pollution, both by acts of Congress and Executive orders, there have been only token efforts on the part of many agencies to exercise this responsibility. Most agencies of the Federal Government have placed the environmental quality control function in a distinctly secondary role.

If the Nation is to have an effective water pollution control program or any effective environmental control program whatever, it is essential that this situation be reversed and that Federal agencies begin to consider the environmental aspects of their programs as a matter of first priority.

The argument that budget requirements restrict the ability of Federal agencies to control the waste produced by their own operations is unacceptable. Communities which are required to make massive investments on sewage treatment plants have equal, if not greater, budgetary problems. Industries likewise have difficult problems in providing the capital investment which water pollution control requires. Individuals who are required to expand funds to control wastes such as sewage discharges from vessels will have no option. In many cases communities, industries, and individuals have committed the capital to pollution control. The Federal Government on the other

[p. 7]

hand has been reluctant to invest the funds needed to control the pollution which its activities create. In addition, Federal agencies have not been active in requiring people who do business with the Government to meet water quality requirements.

S. 7, as reported, provides an orderly mechanism for insuring that all Federal activities will comply with the philosophy and intent of the Nation's water quality program. The task that this section sets for Federal agencies both in controlling their own waste and requiring control by Federal licensees, permittees, and other related Federal activities will not be easy nor inexpensive. Nevertheless, the committee expects that it will be accomplished.

The committee recognizes, however, that not all activities will lend themselves to easy solutions and that, for some activities, specific standards and plans for their implementation have not even been proposed. One of these areas, dredging and the disposal of dredge spoil, is analyzed later in the discussion of intent of the major provisions.

While this provision may suggest a restrictive regulatory function, its primary purpose will be served by opening lines of communication

between Federal agencies, those doing business with Federal agencies, and State water pollution control agencies.

The water quality standards program envisions preventive rather than abatement techniques. This provision applies a preventive technique. It should not impose a burden on any applicant for a Federal license or permit, because the committee assumes that Federal licensees and permittees, like any other organization or individual that intends to use the waters of the United States, will anticipate pollution control in the construction and modification of any facility.

The committee hopes and expects that the communication between the applicant and the appropriate pollution control agency will develop at the earliest possible time, relative to the planning of any facility which will affect water quality. Site location is integral to effective implementation of the Nation's water quality program. There are sites where no facility should be constructed, because pollution control technology is not adequate to assure maintenance and enhancement of water quality. Those who make the decision on site location should be aware of this prior to making any investment in new facilities.

SEWAGE DISCHARGE FROM VESSELS

This legislation also includes requirements that new and existing vessels install marine sanitation devices which meet performance standards and regulations set forth by the Federal Government. With the exception of technical changes and a revision of the preemption clause this section is similar to that which passed the Senate unanimously as a part of S. 3206 in 1968.

OTHER MAJOR PROVISIONS

The provision for *acid mine drainage* which was included in S. 2760 in 1967 as two sections has been combined into one section authorizing both research and demonstration and as such is substantially the same as the provisions that passed in 1967.

[p. 8]

The provision for *clean lakes* originally sponsored by Senators Walter Mondale and Quentin Burdick has been expanded to authorize the development of necessary research facilities but is otherwise identical to the legislation which passed the Senate unanimously in 1967.

The committee was confronted with the dilemma on how to deal with the problem of *discharge of hazardous substances* (other than oil) which present an imminent and substantial endangerment to public health and welfare, but for which there is no clear clean-up

authority. The record on this subject was inadequate. Information indicated that such discharges do occur and that the damage caused by such discharges is extensive. The list of discharges of oil and other materials since January of this year printed on page 59 records several discharges of hazardous substances.

S. 7, as reported, authorizes the President to designate substances which in any quantity present an imminent and substantial endangerment to public health or welfare and to require notice of the discharge of any of those substances after such designation. The President is authorized to clean up those discharges where practical. The committee recognizes that many of the substances which will be designated are water soluble or because of other circumstances cannot be effectively cleaned up. This section will primarily serve to notify downstream water users of a dangerous discharge.

The committee expects a report from the President no later than November 1970 which will discuss the types and amounts of liability which can be imposed to recover the cost of cleaning up hazardous substances. The findings of that report will be the subject of future legislation.

The committee has included in this legislation a provision offered by Senator Stephen M. Young, identical to that which was passed by the House of Representatives, to provide relief for the citizens of the *Great Lakes* who are confronted with a rapid deterioration of their vital water resources.

This section authorizes the Secretary to enter into demonstration projects for which the Federal Government will pay up to 75 percent of the cost to find new methods to control and eliminate pollution in the Great Lakes drainage basin. There is no question that this legislation is essential. The Great Lakes are perhaps the Nation's most vital water resource, yet Lake Erie is dying and Lake Michigan is causing serious concern. No Federal dollars will be better spent than those which produce effective methods to deal with the critical problems of the Great Lakes, for not only will those dollars help remedy an already critical situation but they will undoubtedly demonstrate methods which can be used to prevent the accelerated eutrophication of other lakes and reservoirs which are equally important to other regions of the country.

The committee has been increasingly concerned about the availability of *trained technical personnel* to operate sewage treatment plants. As a result of that concern the committee authorized a study of manpower and training needs in the Clean Water Restoration Act of 1966. That study was transmitted to the Congress in mid-1967 and was printed as Senate Document No. 49 on August 31, 1967. On the basis of that report, which indicated a demand for 18,500 new plant

operators and the need to upgrade the skills of many existing plant

[p. 9]

operators, and a report prepared for the Subcommittee on Air and Water Pollution by the General Accounting Office on the effects of inadequately trained personnel on the operation of federally assisted sewage treatment plants, the committee was pleased to receive and include in the bill a proposal by Senator Hugh Scott to authorize pilot programs for training plant operators and technicians.

The committee recognizes that a great deal more than a pilot program will be required if Federal funds for sewage treatment plant construction are to be invested wisely, but believes operating experience with a pilot program would provide a sound base for expanded legislation in the near future.

The committee recognizes that, despite the progress made in constructing waste treatment plants, in setting up State water quality standards, and in research and development, one vital area has been neglected, an area which is indispensable to the success of all other activities; namely, the development and training of an overall labor force to eliminate the problems of operation and maintenance. The operator has traditionally come from the bottom strata of the work force. If this program is to be successful, plant operators as well as the sophisticated engineers must be trained. Both are required to operate and maintain present and future waste water treatment facilities.

This provision authorizes programs to be carried out in cooperation with governmental units (especially State and local), educational institutions and other organizations. It is intended to supplement, rather than supplant, current operator training projects, such as those financed through Manpower Development and Training Act funds.

Moreover, this language will establish an effective system for forecasting supply and demand for manpower, 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.

This title of S. 7 is as significant as any water pollution legislation ever reported by the Committee on Public Works. It provides authority to deal with a variety of critical yet definable water pollution problems. Unlike prior measures which have been reported by this committee, this legislation does not develop a new policy for water pollution control but rather provides additional tools to implement the national policy of water quality enhancement established by the Water Quality Act of 1965. This title recognizes that all of the tasks

which confront the Nation, if it is to secure effective control of water pollution, cannot be solved without these additional tools. It recognizes that there are still areas in our national environmental control effort which require specific attention and specific mechanisms to solve specific problems.

Finally, it recognizes that no single bill can effectively provide a final solution to this critical national problem. While the Water Quality Act of 1965 was a comprehensive policy outline and a mechanism for developing an integrated approach to pollution control, and while the 1966 act was the funding authority which was needed to implement the guidelines set forth by the Water Quality Act, this legislation is designed to improve the ability of the Nation to cope with critical and pressing problems.

[p. 10]

SUMMARY AND DISCUSSION OF MAJOR PROVISIONS

CONTROL OF SEWAGE FROM VESSELS

Waste from water craft is one of the many sources of pollution that have an impact on the water quality of our Nation. This is most severe in bays, lakes, harbors, and marinas where the concentration of vessels is heaviest and there is a minimum natural flushing of the contaminants discharged. This increasing use of our waterways will further compound these problems. The committee intends that this new section will assist in preventing at the earliest possible time permitted by existing and advancing technology, economics, and other practical considerations, the discharge into the navigable waters of the United States of raw or inadequately treated sewage from vessels.

The Federal Water Pollution Control Act charges the Secretary with the responsibility for approving water quality standards to maintain and enhance the quality and value of our water resources. This section requires that the Secretary promulgate performance standards indicating what a sewage treatment or holding device must accomplish to be acceptable for marine use. It is intended that the performance standards be expressed in terms of specific levels. Coordination with the Commandant of the Coast Guard is required because of the practical necessity of considering marine design and other factors in the development of feasible device standards.

The general enforcement authority to accomplish this section has been vested in the department in which the Coast Guard is operating. This was done because of the similarity to other Coast Guard functions and the expertise of the Coast Guard in marine engineering. In order to insure adequate recognition of marine safety and other transportation aspects, the Secretary of the Department in which the Coast Guard is operating has been designated to develop and

promulgate the regulations which pertain to the design, installation, and operation of marine sanitation devices and further to certify these devices as complying with such regulation standards. These regulations must also assure compliance with the standards of performance issued by the Secretary. It is the committee's intention that there be close cooperation and coordination between the Secretary and the Secretary of the Department in which the Coast Guard is operating in the development of the overall program.

The committee recognizes the problems imposed by the shortcomings of present technology, economic impact on commercial and recreational vessel owners, and the complexity of marine watercraft; therefore, waiver authority has been incorporated into this section which the Secretary of the Department in which the Coast Guard is operating can exercise as necessary. It is the intent of the committee that this subsection not suggest dilatory implementation but rather a practical and workable program for which maximum benefits can be realized in the shortest possible time.

The authority provided by this section is further intended to provide flexibility regarding application of standards on older vessels. Installation of marine sanitation devices on older vessels may not be either economically nor technically feasible. In some cases rigid requirements may cause early retirement of vessels which may be approaching withdrawal within a short period. In those cases where the Coast

[p. 11]

Guard is able to determine that vessels will be retired within a scheduled period, the committee expects the commandant to use discretion in requiring compliance.

While the installation of devices may be "technically" feasible, economic feasibility may be more difficult to ascertain. The committee expects the Commandant to consult with Federal agencies involved in regulation of the merchant marine to develop an objective judgment.

The committee expects the Coast Guard to conduct sufficient research and development to assess present technology, design improved devices, if required, prepare implementing regulations for this section, and adequately enforce the provisions of this section and the regulations issued thereunder.

The committee intends that the Department of Defense take all necessary steps to comply with the standards promulgated pursuant to subsection (b). The Defense Department has a special leadership responsibility. Critical national attention is constantly focused on naval vessels, requiring pollution control to be as much a matter of

public relations as public responsibility. Therefore, the committee believes the Department of Defense should take a strong leadership role in both development and application of vessel pollution control technology.

At the same time the committee does not believe it is necessary for the Coast Guard to supervise the Defense Department program. It is the intent of the committee that these two Federal agencies and the Department of the Interior develop a coordinated plan to achieve the pollution abatement objectives of the legislation. Further, the committee intends that the Department of Defense should report periodically to the Congress regarding progress in meeting and exceeding standards of performance.

The committee strongly urges the Department of Defense to request such funds as may be necessary to implement vessel pollution control, and to assist the Secretary and the Commandant by providing information on technology developed to implement the purposes of this act.

The committee recognizes that many States have moved to control inadequately treated or untreated waste discharges from vessels and lauds the efforts of those States. However, conflicting regulations and standards relative to marine sanitation devices present a hardship to recreational boaters who move between States and potentially serious restrictions on interstate movement of commercial vessels.

In order to avoid these difficulties, the committee has provided for Federal preemption of the authority to regulate the design, use, manufacture, and installation of marine sanitation devices. Federal preemption means that no State shall have authority to require any device of any kind on any vessel subject to the provisions of this section after the effective date of the standards and regulations.

The committee is aware, however, of the necessity to relate any sewage treatment control measure to existing water quality programs. Consistent with this philosophy, the committee has provided authority for the States to prohibit entirely the discharge of any sewage from vessels without regard to the regulations regarding installation of marine sanitation devices if a water quality standards plan for implementation requires such restrictive measures. This exception is not

[p. 12]

intended to be broadly construed. A State cannot prohibit vessel waste discharges for all of its rivers, and lakes and coastal waters unless the State has in fact adopted standards which establish uses for all of those waters which require such an absolute prohibition.

In effect, the committee intends that any State prohibition apply only to areas designated for protection of public drinking water supplies, shellfish beds, and areas designated for body contact recreation.

The committee expects that the States will provide alternative facilities for disposal of sewage from vessels wherever appropriate.

The committee further intends that the States should make every possible effort to inform recreational and commercial vessel owners and operators of the nature and extent of any prohibited area, so as to not interfere with commerce and at the same time protect the high use for which the water has been designated.

The committee expects that in any implementation of this exception the States will use the water quality standards procedure and submit to the Secretary, any revision of water quality standards for interstate waters including in such revision those areas where a prohibition is required to protect and enhance water quality. In this manner the intent of the committee will be more clearly carried out and those recreational and commercial vessels which move between States will be informed of any prohibited discharge area.

This provision is substantially the same as that which was passed by the Senate and the House in 1968 and provisions other than those discussed above are evaluated in the report language found in Senate Report No. 1371 of the 90th Congress which accompanied S. 2525.

CONTROL OF OIL POLLUTION

This section includes the following provisions:

1. Declares the discharge of oil to be unlawful;
2. Authorizes establishment of regulations relative to discharge and removal of oil;
3. Establishes penalties for violation of regulations and for failure to notify;
4. Provides clean-up authority;
5. Establishes liability and financial responsibilities; and
6. Establishes a $50 million revolving fund and enforcement procedures.

This section assigns the authority for water pollution control directly to the President for division among the appropriate agencies. The committee has carefully considered the various agencies with potential responsibilities pursuant to this section. It is clear to the committee that no single Federal agency can carry out the several functions authorized. For example, water quality responsibilities are vested in the Department of the Interior while general surveillance, contingency planning and oil cleanup may best be delegated to the Secretary of the Department in which the Coast Guard is operating. The financial responsibility section, which will require evi-

dence of the ability of vessels owners and operators to cover up to $100 per gross ton of liability in the event of a discharge, may most appropriately be delegated to the Federal Maritime Commission, which has experience in this area. It may be appropriate, in certain navigable waters, to utilize the facilities of the Corps of Engineers for both

[p. 13]

period, while standards and detailed regulations are being developed, the committee expects the President, through the Secretary of the Interior, to develop guidelines for the reporting of oil discharges including the limits on the amount of oil which may be discharged, the appropriate agency to which the discharger should report, if a spill occurs, and approved methods of removal.

Discharge penalty

The discharge penalty as set forth in paragraph 2 of subsection (b) is provided primarily for two reasons. First, there are those discharges which do not lend themselves to effective cleanup and yet present a hazard to water environment.

Often these discharges come in the form of indiscriminate dumping along the coast during the night or accidents along the navigable waterways. This penalty, while it should be implemented with discretion, should be useful in discouraging oil spills.

The notice requirement as set forth in subsection (c) is critical to effective implementation of the act. The committee intends that this provision be strictly enforced. Only through acknowledgment of the requirement to notify the appropriate Federal agency can removal be commenced early enough to reduce damage and assure effective implementation of the statute. The committee intends that enforcing agencies assume that persons in charge of vessels and on-shore and off-shore facilities will have knowledge of a spill and therefore cases where such persons fail to notify due to lack of knowledge should be rare.

Regulations for procedures and standards

The President is granted broad authority to issue regulations relative to procedures and methods for preventing discharges, methods of removal of discharged oil, and development and implementation of oil removal contingency plans.

It is the intent of the committee to provide some uniformity in dealing with oil spills in order that owners and operators of vessels and on on-shore and off-shore facilities (a) know what is required of them in removing any discharge, (b) effectively and rapidly move

to clean up the discharge and (c) coordinate their activities with the appropriate Federal, State, and local agencies. Especially important in regard to this subsection is the development of criteria which indicate the types of equipment which can be used safely to remove oil and the types of chemicals which can be used for dispersal.

Contingency planning for a major oil spill is critical to effective implementation of the Act. The committee expects that the Commandant of the Coast Guard will coordinate his activities in developing contingency plans with appropriate agencies of State and local government and with potential oil spill sources. Because information on acceptable procedures for prevention of oil discharges and methods of cleanup, is limited, it is anticipated that the regulations established pursuant to this section will be periodically reviewed and updated to take into account new information and new technology.

Penalty for Violation of Regulations

The bill provides a $1,000 penalty for an owner or operator of a vessel, or onshore or offshore facility, who fails or refuses to comply with regulations set forth pursuant to the previous paragraph. While it is not the intent of this paragraph to be confiscatory, the committee

[p. 16]

intends to assure that the methods used to clean up oil discharges are consistent with the overall water quality goals of the program, as well as the contingency plans which have been developed in consultation with owners or operators of vessels and onshore and offshore facilities.

General Liability

S. 7 provides an opportunity for the owner or operator of a vessel or onshore or offshore facility to immediately remove any oil discharged. It is the intent of the committee to encourage removal of oil by the owner or operator of the discharging source.

In many instances, the owner or operator of a vessel or onshore or offshore facility will know of a discharge prior to any agency of the U.S. Government and be in the best position to take early action to prevent or minimize damage. As testified to by the oil and shipping industry it will be in the best interest of the owner or operator to take immediate measures to reduce damage from an oil spill.

At the same time, the committee does not intend to restrict the authority of the President to act to remove oil that has been spilled. In those cases when the owner or operator is not capable of cleaning up the discharge, or the owner or operator refuses to clean up the discharge, or, does not adequately clean up the discharge, the com-

mittee expects the President to act to remove the oil to prevent damage and decrease cost.

Vessel liability

The bill imposes liability for the costs of removal on owners or operators of vessels which discharge oil into the navigable waters of the United States or adjoining shorelines or into the contiguous zone. The liability is measured per vessel, per owner, per discharge. In the case of a barge tow, each barge in the tow and the powered vessel or vessels are considered to be separate vessels.

It is the intent of this subsection and succeeding subsections relative to onshore and offshore facilities and onshore and offshore drilling-production facilities to recognize the hazardous nature of an oil discharge and the extraordinary, adverse effect such a discharge may have on fish and wildlife, beaches, and public and private facilities.

The committee has set a liability on vessel owners of $125 per gross ton of his vessel or $14 million, whichever is lesser. This amount is adequate, according to the best information available to the committee, to cover the cost of the most expensive oil spills, while at the same time not placing an unreasonable insurance burden on vessel owners. Parenthetically, it should be noted that the outer limit of $14 million is adequate to cover the (cumulative) liability, at $125 per gross ton, of any vessel in the American-flag fleet or any other vessel capable of using the ports of the United States at the present time.

If an oil spill occurs, the committee expects that the owner or operator will take such action as may be necessary, following notification, to immediately clean-up the discharge. If the owner or operator fails to do so and the United States is required to act, then the United States is authorized to collect its cost up to the limit of liability or, if the United States is able to prove that the discharge was the result of negligence or a willful act, all costs regardless of limit of liability. If the owner or operator cleans up an oil discharge and later is able to prove that the discharge was caused solely by (a) an act of God, (b) an act of war, (c) negligence on the part of the U.S. Government,

[p. 17]

or (d) an act of a third party, he may recover reasonable clean-up costs from the United States in an action before the Court of Claims.

Financial responsibility

The bill establishes a mechanism whereby the U.S. Government can be assured that vessels using the waters of the United States are financially able to pay clean-up costs incurred by the U.S. Govern-

ment up to $100 per gross ton of the largest vessel owned or operated by a person. It requires that any vessel over 300 gross tons, including any barge unit of equivalent size, establish and maintain evidence of financial responsibility. The figure of $100 is based on the committee's belief that absolute liability as imposed with exceptions is similar to the concept of liability based on negligence with a reverse burden of proof and therefore should be insurable to a similar level. The figure reflects an attempt by the committee to assure maximum protection to the U.S. Government while not requiring uninsurable evidence of financial responsibility. This subsection further sets forth the methods by which evidence of financial responsibility shall be issued by a bonding company authorized to do business in the United States and provides the United States with authority to bring action directly against an insurer to recover the cost incurred by U.S. Government cleanup.

On- and offshore facility liability

The committee had differentiated in its consideration of on- or offshore facilities as between those facilities which are involved in the drilling and production of oil and those facilities which are utilized for the purpose of processing, transporting, transferring or storing oil. The intent of this distinction is to recognize that the latter facilities have a fixed amount of oil which can be discharged, while drilling and production facilities can discharge unknown quantities of oil. Secretary Hickel, for example, testified that a well off the coast of Alaska pumped gas for 14 months. He noted that had that been an oil well, "You would have had oil from the Arctic to the Antarctic."

The committee also established this distinction on the basis of the ongoing oil discharge problem at Santa Barbara, recognizing that there are no adequate statistics on actually how much oil has been released nor is there any indication as to when this discharge will be abated. The amount of oil capable of being discharged onshore and offshore facilities other than drilling and production facilities can be calculated. For both types of on- and offshore facilities the committee established a liability standard similar to that set forth for vessel liability. Liability is limited to $125 per ton of oil which any processing, transporting, or transferring facility can pass through in a 24-hour period or which the largest unit of any tank farm could store at a given time. The figure established for limit of liability under this section intends to be consistent with the oil pollution liability established on vessels and has its origin in figures given the committee concerning the cost of removal of a barrel of oil. For on- and offshore drilling-production facilities the committee established a figure of $8 million. While not directly related to any known spill from an

onshore or offshore drilling-production facility this figure is one that the testimony indicates can be insured and is approximately twice the amount which has been expended to this point in time in cleaning up the ongoing discharge at Santa Barbara.

[p. 18]

As is the case with vessels, if the owner or operator of any onshore or offshore facility or onshore or offshore drilling-production facility can prove that the discharge was caused solely by (*a*) an act of God, (*b*) an act of war (*c*) an act of a third party, or (*d*) an act of U.S. Government negligence he may recover reasonable cleanup costs from the United States.

Revolving fund

S. 7 provides for the establishment of a $50 million revolving fund to be made available to any of the designated Federal agencies to carry out the purposes of this section. The committee intends that the revolving fund be utilized to reimburse any owner or operator who has expended money for his cleanup operation and has later proved that the discharge was caused solely by one of the exceptions. Also the funds should be available to reimburse any State or local government which may have undertaken the cleanup activity with the approval of the designated Federal agency. Such funds as may be received by the United States from reimbursement of Federal cleanup costs are to be deposited in the fund as are any funds received from fines or penalties under this section.

Recovery from the United States

As discussed above, whenever an owner or operator removes the oil and can prove that the discharge was caused solely by one of the listed exceptions, the owner or operator may recover reasonable costs of cleanup from the United States. The bill provides that an owner or operator will have first cause for action against any third party which may have caused the discharge and specifically indicates that the provisions of this subsection do not apply to any liability standard established pursuant to the Outer Continental Shelf Lands Act.

The committee discussed application of the liability limits to offshore facilities located on the Outer Continental Shelf but determined that there is adequate regulatory authority vested in the Secretary of the Interior pursuant to the Outer Continental Shelf Lands Act.

Emergency action

S. 7 provides authority for the President to act to remove any vessel which in his judgment presents an imminent and substantial en-

dangerment to public health and welfare because of an actual or threatened discharge of oil into or upon the navigable waters of the United States. This is general and broad authority modeled after authority of the Secretary of the Army to move obstructions to navigation. The committee intends, however, that every precaution be used in the exercise of this authority. At all times the committee expects that the President or his delegate will provide an opportunity to the owner or operator of a vessel to remove a vessel or take such other action as may be warranted to protect the public health and welfare.

The President is authorized to seek an injunction against any actual or threatened discharge from an onshore or offshore drilling production facility or an onshore or offshore facility. Again the committee expects that this authority will be used only in those instances where State or local police action has failed and where the owner or operator is either unable or unwilling to control the actual or threatened discharge.

[p. 19]

Other authority not affected

The bill gives general recognition that its provisions do not affect the existing authority of other Federal agencies relative to on- or offshore facilities under the provisions of this or any other act or affect or modify any State or local law not in conflict with the provisions of this section.

The committee expects that Federal agencies with authority over on- and offshore facilities, on- and offshore drilling production facilities will continue to exercise that authority under the provisions of other law. Also the committee does not intend to preempt those provisions of State law which are not in conflict with the bill. For example, the committee understands that some States have established absolute liability without limits on oil discharged from State-leased offshore oil facilities in the tidelands. The committee does not intend that any provision of this law should effect the right of the State to include such provision in its lease or otherwise provide such liability. At the same time the committee intends that the provision of this section shall preempt any State or local law which provides for less stringent liability. Finally, the committee does not intend that an owner or operator should be obligated to both the U.S. Government and the State government except to the extent that costs are incurred by both.

HAZARDOUS SUBSTANCES

During hearings on S. 7, recommendations were made to include

hazardous substances with oil in the operative provisions regarding discharge removal notice, and liability. After extensive study the committee concluded that hazardous substances could not be covered in the legislation in a manner similar to oil. Many and important differences exist and yet the following examples indicate that the discharge of hazardous substances into the navigable waters of the United States does present a threat to the public health and welfare.

In January of 1968, a spill of chemicals into Buck Creek in Indiana caused a large fish kill in 65 miles of the stream. More recently, a spill of a hazardous substance occurred on July 9, 1969, when acid leaching material, about 450,000 gallons, was released into the San Francisco River where 50,000 dead fish were counted in the first 4 miles of the river within 10 hours of the discharge. It should be noted that in 1968, the largest fish kill on record in the United States occurred on the Allegheny River, Bruin, Pa., where 4 million fish died. In this instance a petroleum refinery lagoon overflowed, releasing toxic chemicals into the stream. Also, the recent discharge of 200 pounds of Thiodan, an insecticide, caused a massive fish kill in the Rhine River.

Two principal differences exist between oil and hazardous substances that form the basis for drafting the hazardous substances provision of S. 7. First of all hazardous substances require definition or designation.

The Water Quality Act established a procedure to control industrial, community, and other effluents. Many of these discharges, if uncontrolled, would present a substantial endangerment to public health and welfare. As initially proposed, so-called hazardous substance discharges could fall within the category of normal discharges which

[p. 20]

are being brought under control pursuant to plans for implementation of water quality standards.

The committee believes that there is an important distinction between such normal discharges and massive spills and, further, that more information is necessary to effectively define the amounts and types of substances which, when discharged in any quantities, would endanger health and welfare.

Conceivably it could include untold numbers of chemicals, materials, foodstuffs or whatever, and therefore, if the public is to know what materials are, in fact, hazardous to health and welfare, substances must be designated after a procedure enabling public participation and formal designation. Consequently, the committee has granted to the President the authority to perform the necessary re-

search, and further has set out an administrative procedure for the designation of such substances including publication in the Federal Register, opportunity for a hearing and appeal to the courts. It is important to note that the FWPCA has already published a list of some 51 substances as hazardous. These, of course, would require designation pursuant to the procedures of S. 7 before the discharge of such substances would fall under the provisions of S. 7.

The second important difference between oil and hazardous substances is in the nature of the substances. Many hazardous substances, unlike oil, are soluble in water and therefore not subject to standard techniques of removal. Consequently, removal liability would not be applicable in some instances or at least raise substantial questions about removal techniques and costs. Therefore, the committee has authorized the President to conduct an accelerated study of the methods and techniques of imposing removal or other types of liability on dischargers of hazardous substances, and, further, to make recommendations for legislation based thereon. Certain hazardous substances can be rapidly and extremely harmful to health and public welfare and, where discharged into water, can be quickly disseminated to unknowing water resource users, especially water supply and public bathing. It is essential that a procedure be developed to enable the rapid circulation of information concerning such a discharge. The committee has provided for this by requiring a discharger to immediately notify the United States of such discharge under a criminal sanction.

ACID AND OTHER MINE DRAINAGE POLLUTION

Acid and alkali pollution discharged into various local watercourses, are carried by the natural flow of stream systems into major river basins, thus creating extensive intrastate and interstate pollution problems.

The specific impact of mine drainage pollution is characterized by "stream sterility": the normal stream and river ecology, or balance between living organisms and their environment, is disrupted by the presence of large volumes of acid or alkali mine drainage wastes. These wastes are products of chemical reaction between air and water and the minerals found in and around ore deposits. Coal mine drainage pollution is primarily in the form of sulfuric acid and the dissolved salts of such metals as iron and aluminum. When these wastes reach a watercourse, the iron salts undergo hydrolysis in the receiving water,

[p. 21]

producing an ugly yellow or orange brown precipitate (iron hydrate) known as yellow boy.

Mine drainage can present a serious pollution problem because of the great quantities involved, whether acid metallic salts, precipitates or alkalinity. Acid mine drainage can be the most serious problem by far.

It has been estimated that 3.5 million tons of acid are discharged into well over 6,000 miles of the Nation's major streams, resulting in damage to aquatic life and potential severe loss of the recreational capacity of those affected waterways. The impacts of acid pollution are compounded when less-than-major damage is considered. The many acid seepage areas around mines are barren of plantlife to such an extent that as much as 1,000 times as much sediment is washed from them into streams by erosion than from forest- and grass-covered lands. In addition, there are more than 30,000 surface acres of impounded waters and reservoirs which are seriously affected by surface and subsurface mining operations.

Of the 5,700 miles of acid mine drainage-polluted streams in Appalachia, over 75 percent occur in portions of Pennsylvania, West Virginia, Ohio, and Maryland, drained by the Allegheny, Monongahela, Susquehanna, Delaware, and Potomac Rivers.

Extensive water quality investigations in Appalachia revealed widespread acid mine drainage pollution. In the relatively small Kanawha-New River system in West Virginia, approximately 67 million gallons of acid mine drainage water enter the river system every day. The total for West Virginia is 360 million gallons per day. A single large coal mine may discharge as much as 10 million gallons of water a day. Over 20,000 abandoned mine openings thus pose a serious pollution threat to streams, lakes, and reservoirs.

Acid mine drainage is especially destructive to fish and other aquatic life. It corrodes piping and treatment plant facilities. Associated discolorations and precipitates render the streams unappealing and offensive. Fishing and recreational uses are eliminated or seriously curtailed.

The most serious problem associated with acid mine drainage pollution is the fact that 80 percent of acid mine drainage comes from abandoned and inoperative mines. Though laws and regulations in some States control present and future mining operations, there appears to be no simple way to achieve control over the thousands of abandoned mines.

Well over 90 percent of this land is in private hands, which places institutional and financial limits on the abilities of State and local government units to deal with the problem. Houston R. Wood, Jr., assistant chief of the West Virginia Division of Water Resources, testified that due to restrictions in the mining area restoration provision of the Appalachian Regional Development Act of 1965 to lands in

public ownership, West Virginia could not avail itself of allocated funds. Some arrangement must be devised whereby States can mount far-reaching programs of reclamation and acid drainage control, by the use of easements or other similar techniques. The committee does not recommend the outright purchase of lands just for the purpose of controlling drainage from abandoned mining activities.

[p. 22]

Research, development, and demonstration should proceed along two primary pathways. The most effective and economic treatment processes should be involved and at-source control technology should be developed and demonstrated. Answers provided by research and development may result in a significant reduction in cost for cleanup of mine drainage pollution and subsequently reduce the cost of damages. The impact of these potential savings is increased by the fact that a major portion of the problem is associated with economically depressed areas.

There is a variety of techniques for sealing and/or flooding mines, preventing air and water exposure of pyritic materials, and preventing the egress of polluted water. Generally, however, the very mechanism by which acid is produced initially keeps these techniques from being entirely satisfactory. Research has produced a number of control proposals, some of which (including advanced grouting techniques) show considerable promise. Some appear ready for limited application in selected situations; others are ready for pilot plant or single-unit scale application.

The possibility of employing more advanced techniques to alleviate the problem has recently been explored. Considerable research is required to develop a clear understanding of the mechanisms involving the related kinetics, the role of bacteria, and the feasibility of treatment techniques such as neutralization, reverse osmosis, electrodialysis, and ion exchange. Preliminary data have shown that many, or all, of these treatment processes will be of value in reducing acid pollution.

New methodology for the control of mine drainage at the source must be developed; existing techniques must be refined and demonstrated, and the costs for large-scale application must be more closely defined. Methods requiring research and development alteration include air sealing, mine flooding, drainage diversion, chemical inhibition of pollutant formation, and injection of mine drainage to underground rock formations.

Though much research has been carried out, Federal efforts have been sporadic and poorly coordinated until recently, and current programs of practical scale reclamation are not nearly ambitious

enough to meet the problem. State efforts have almost uniformly been directed at surface mining, through control of current mining operations, and very few States have made attempts to reclaim abandoned operations. Thus the bulk of the problem lies outside of their present attention.

Federal action, although still disjointed, is attempting, with the aid of private industry and some of the States, to fill the gaps with approaches to the knottier problems. Testimony strongly suggested that the cooperative State-Federal effort envisioned in the demonstration provisions of this bill would be an important step toward overcoming these gaps.

There are also areas in which our abilities to deal with acid mine drainage are fairly well developed, and where areawide demonstration projects would provide the opportunity to show ways of putting these techniques together into coordinated attacks. In Dr. Abel Wolman's 1966 report to the Research Management Advisory Panel of the House Committee on Science and Astronautics, he observes:

> Substantial sums are being devoted to rather detailed and long-term survey and research projects. In view of the fact
>
> [p. 23]
>
> that certain empirical practices have already been proved to be efficacious in minimizing acid mine drainage, the public interest may be better served if a greater portion of the Federal funds were employed at this time in an effort to secure immediate benefits (hearings on the "Adequacy of Technology for Pollution Abatement," p. 492).

Finally, a definitive evaluation of the role acid pollution abatement will play in the total pollution control program must be developed. Only by continuing present research, engaging new and more sophisticated techniques, and by instituting new laboratory and demonstration-level projects can this overall evaluation be realized, and can acid pollution be rendered a "thing of the past."

The bill would add a new section to the act authorizing the Secretary of the Interior to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of projects for the demonstration of feasible and practical areawide methods of controlling acid pollution resulting from mining activities.

These projects should demonstrate for an entire watershed the kind of abatement techniques, land management, and water management necessary to eliminate pollution from acid and other mine water pollution. In selecting the watershed or drainage area for the project, the bill requires the Secretary to give preference to the areas which

have the greatest public values and uses, and to take what measures he deems appropriate to satisfy himself that the selected project area will not be adversely affected by the influx of acid mine pollution from nearby sources. Clearly, the project would not be effective if it could be demonstrated that the acid mine pollution in the project area could be controlled, but such pollution originating outside that area could not be controlled. If there is such pollution coming from within and without the project area, the Secretary should satisfy himself that the project will demonstrate an effective and practical method of control of all such pollution.

In choosing such an area, the Secretary will make studies including an inventory of acid drainage sources within the watershed, downstream water uses, the benefits of pollution control, engineering and economic feasibility of locating the project in that area, and the feasibility of protecting the area from future damage once remedial measures have been employed. In choosing drainage areas, consideration would be given to potential public uses such as water supply, fish and wildlife enhancement, and recreational values, and in areas where land has been lost to agriculture through mining activities, the potential for demonstrating reclamation to agricultural uses.

In this connection it should be noted that upon recommendation of the Committee on Public Works, Congress directed in the Appalachian Regional Development Act of 1967 that the Appalachian Regional Commission, in cooperation with the Secretary of the Interior, survey the extent and impact of acid mine drainage in Appalachia. The findings and recommendations in that survey, in the opinion of the committee, should be carefully considered in carrying out this program, particularly in initiating plans for comprehensive action programs in priority watersheds.

Another key provision of the bill directs the use of "various abatement techniques" for acid mine water elimination or control rather

[p. 24]

than limiting the approach to a particular process. In considering the possible solutions to an areawide problem, it may be necessary to use a combination of techniques. The techniques used and the relative importance of each will vary from area to area.

It is expected that with Federal leadership these basinwide projects will attempt to demonstrate solutions to the more difficult problems associated with acid mine drainage. In addition to these projects related to abandoned mines, attention should be given to problems such as drainage from gob and waste piles and pollution from roads built with pyritic materials.

In the Appalachian areas where the acid mine drainage problem is

most severe, quality agricultural land is at a premium. Much of this land has been disturbed by surface mining and depositing of slag and gob wastes.

Recreational opportunities in the Appalchian area have been limited by the relatively small number of natural lakes. Recreational developments in these area demonstration projects might well be planned so as to include lakes in the reclamation-control demonstrations, thus enhancing the possibilities of the water-based recreation Americans prize.

The State contribution to the costs of area demonstration projects can be met in cash, or in kind, such as land, goods, or services. It is hoped that wherever possible, a cash share will be offered by the State, but selection of demonstration areas should be based on their potential for significant demonstration, apart from considerations of State and local cash contributions.

Much concern has been expressed over the failure of earlier programs of control of mine acid drainage. These earlier programs, notably the WPA efforts in the 1930's, were Federal projects not followed up by the States. Most of the States involved were not financially able to bear the burden of maintenance over 30 years. Thus, an investment has been wasted, and acid mine water issues from once-sealed mines.

The act directs that Federal participation shall be conditioned on the State providing legal and practical protection to demonstration areas, assuring the prevention of future acid mine water pollution problems from the area. The Secretary, in discontinuing Federal participation in the project and maintenance, should again be assured that the States or a private authority will maintain demonstration projects where there is a lasting public value.

The appropriation of this money "to be available until expended" is especially important. These programs cannot be limited to a specific short-time period. Any time limitation could seriously impair the detailed planning and legal efforts that must precede the actual fieldwork, as well as the proper execution and evaluation of the various processes necessary to do the job.

GREAT LAKES DEMONSTRATION

This bill would authorize a special demonstration program to attack the unique and critical problems of the Great Lakes region. This program is in addition to the program authorized in the legislation to control lake pollution or lake eutrophication. Twenty million dollars is authorized to enter into agreements for State and local agencies to carry out severally or jointly demonstration projects to

eliminate or control water pollution in the Great Lakes. The States or local agencies would share in this cost.

Most of the States adjoining the Great Lakes have already undertaken significant programs to control pollution, which indicates their willingness to meet their obligations in this intergovernmental effort.

The Great Lakes are surrounded by a dense population and are confronted with a rapidly deteriorating water pollution and water supply problem. Special efforts are needed by all levels of government to accomplish substantial remedial action in order to avoid irreversible deterioration of the water quality of the Great Lakes.

FEDERAL ACTIVITIES COMPLIANCE

Existing law declares it to be the intent of Congress that all Federal departments, agencies, and instrumentalities shall comply with water quality standards. This declaration of intent has proved unsatisfactory. One basic thrust of S. 7 is to require that all activity over which the Federal Government has direct control—federally conducted activity, including by lease or contract, or federally licensed or permitted activity—be carried out in a manner to ensure compliance with applicable water quality standards.

It has been brought to the committee's attention that the provisions of section 16(a) and 16(c) of the bill may adversely affect dredging operations essential to navigation. At the outset the committee would like to make it clear that under the provisions of the bill, all dredging, Federal, State, or private, shall be subject to the same standard: compliance with applicable water quality standards.

In enacting section 10(c)(3) of the Water Quality Act of 1965 Congress directed that water quality standards be prepared, considering in the words of the act, "their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses." The committee has taken the further step of adding language in section 10 of the basic act to specifically include navigation.

Although turbidity is included as a measure of water quality in existing water quality standards, the committee has been informed that, with one exception, such standards were not drawn to accomodate or otherwise consider temporary turbidity resulting from dredging and disposal of dredge spoil. Consequently, the committee expects the Secretary to develop and issue to the States criteria providing for the establishment of standards for temporary turbidity resulting from dredging and disposal of dredge spoil. Such criteria should also include information on other contaminants found in dredge spoil and the potential effects of such contaminants on the receiving waters. The committee has noted the specific provision deal-

ing with dredging turbidity in the approved water quality standards of Michigan as one approach to the problem. The committee expects the States to review their existing water quality standards to deal with problems of temporary turbidity where necessary to conform with the intent of section 10(c) (3) of the basic act as amended by this bill.

In order to accomplish the objective of providing for essential dredging without adversely affecting water quality, the committee expects the Secretary to provide the States with the technical assistance required to evaluate both the real and potential pollution associated with dredging and disposal of dredge spoil. Such technical

[p. 26]

assistance should include analysis of dredging and spoil disposal techniques, analysis of areas and materials to be dredged, and the effects of disposal of spoil in submerged areas. The "pilot study" of dredging and water quality problems in the Great Lakes being conducted by the Corps of Engineers should be of material assistance in this effort.

It should be noted that nothing in this bill should be construed as requiring the disposal of all dredge spoil on land. Where such spoil is determined to be nonpolluting and where such turbidity does not cause long-term environmental damage and does not interfere with other uses protected by public policy, and where a short time after disposition in water such spoil ceases to cause turbidity, such spoil may be properly discharged into lakes or rivers where permitted under appropriate State or Federal license.

The committee further expects that in the interim period during which the States will be reviewing their water quality standards relative to dredging activity, no arbitrary or unreasonable restrictions shall be imposed on dredging essential for the maintenance of interstate commerce and that, consistent with the intent of this act, the committee expects the dredging and disposal activities of private dredgers and the U.S. Army Corps of Engineers will be treated in a similar manner.

The bill provides that Federal disposal facilities may be made available to private dredgers with suitable arrangements for reimbursement. The committee also urges the States, in order to minimize potential economic disruption, to make every effort to assist in the designation and acquisition of dredge spoil disposal areas, both on land, diked areas, and usable submerged areas. To the extent feasible, both the Corps of Army Engineers and private dredgers should develop prior agreements with the States on such sites and the nature of spoil to be deposited in those sites.

The committee does not intend the provisions of section 16(c) to apply to the multitude of individual licenses and permits which may be issued by the Federal Government. Among licenses which would be exempt from the provision of this subsection are those granted to ships' masters and certain Atomic Energy Commission licenses. For example, applications for materials licenses from the AEC—that is, for the use, possession, transfer, etc., of radioactive byproducts and other nuclear materials—generally will not be subject to the subsection's requirements. Almost all such licenses are for activities which are not intended to result in discharges or otherwise affect the waters of the United States. Most are for radiography, process control, calibration, teletherapy and other medical uses, gaging, and so on where there may be small amounts of liquid effluents discharged into municipal or similar waste disposal systems for eventual discharge into navigable waters, but normally not a discharge directly into adjoining water bodies.

In the case of licensed activities such as these, where any discharge will be in minute amounts and will not be disposed of directly into any adjoining river, stream, or other body of water, the license for any such activity is not intended to be subject to the requirements of subsection (c). However, where the activities under any such license will result in the discharge of wastes directly into U.S. waters—as, for example, may be the case in connection with the processing and fab-

[p. 27]

rication of "source material"—license applications for such activities are intended to be subject to the subsection's requirements.

It is the intent of the bill that all activities, facilities, and property under Federal jurisdiction shall comply with applicable water quality standards. It provides: (1) for compliance with water quality standards in accordance with an approved plan for implementation and (2) an authorization for appropriations necessary to fulfill the mandate of Congress to comply with water quality standards. It further retains existing language on the mechanics for the incorporation of Federal agencies into the abatement proceedings of section 10 of the Water Pollution Control Act, as amended.

The bill would add the requirement that those Federal agencies that (1) lease Federal property or facilities, or (2) contract for the operation of Federal property or facilities, or (3) contract for the entire operation of any facility, private or public, shall insure compliance with applicable water quality standards in any such activity. In order to avoid duplication, the bill further provides that when any activity covered is also subject to a license or permit under subsection 16(c), a certificate of compliance pursuant to subsection (c) shall ful-

fill the requirements of subsection (b). An example of this type would be a licensee of the Atomic Energy Commission which leases nuclear materials from the United States.

Where a Federal agency has jurisdiction over property which is operated by a cost-type contractor, leased for the benefit of the United States, it is intended that the agency insure compliance in accordance with section 16(a) (1).

The intent of the bill is to provide that all activities and facilities which may result in any discharge into the navigable waters of the United States and that are constructed, operated, or conducted pursuant to a Federal license or permit under any law of the United States shall comply with applicable water quality standards. The bill intends to achieve this purpose by making the granting of all Federal licenses and permits contingent on a certification from the State in which the discharge occurs, or where appropriate, the Secretary or an interstate agency, that there is reasonable assurance that such facility or activity will comply with applicable water quality standards. In addition to setting out this basic requirement, paragraph 1 of subsection (c) provides for (1) certification from the Secretary in any case where water quality standards are not approved, (2) time requirements in the certifying procedure, and (3) a mechanism to allow consideration by States, other than the State in which the discharge occurs, whose waters may be affected by the discharge. The paragraph also provides for including in the Federal license or permit conditions to achieve compliance. This paragraph requires that the licensing or permitting agency hold a hearing at the request of the applicant on conflicts between the conditions of State certification and any conditions which the Secretary may require. The purpose of this hearing is to insure that water quality objectives are protected while not placing an unreasonable burden on the applicant. However, the Federal agency must include conditions as a part of any license or permit which are at least as stringent as the certifying State. In order to insure that a certification is based on full information, and

[p. 28]

that compliance will in fact be achieved, paragraph (1) of subsection (c) requires licensees or permittees to provide the certifying authority with notice of any change in the proposed facility or activity that may affect water quality.

For those activities which require more than one Federal license or permit (such as a nuclear powered electric generating facility which requires both a construction and operating license and may require certain permits from other Federal agencies), paragraph (2) of subsection (c) provides that a certification for one license or permit satisfies the requirement for other Federal licenses or permits for the

same project unless a certifying authority has notified the licensing agency that, because of a change in (1) the nature of the activity, (2) the design of the facilities, (3) the natural characteristics of the waters into which such discharge is made, or (4) the water quality standards applicable to such waters, there is no longer reasonable assurance of compliance with water quality standards.

In many instances where a Federal license or permit for an activity or facility is issued, the licensed or permitted activity or facility may not be, in fact, the same facility or activity that was the subject of review at the time of permitting or licensing because of a lapse of time or changed circumstances. Consequently, paragraph 3 of subsection (c) provides that prior to the operation of any facility or activity, not subject to a Federal operating license or permit, the licensee or permittee shall provide the certifying authority an opportunity to make a final review to determine if such facility or activity will, in fact, be operated or conducted in compliance with applicable water quality standards. If the certifying authority finds that the operations of such facility or activity will not comply with applicable water quality standards, the certifying authority may notify the Federal licensing or permitting agency, which agency is required to suspend or revoke the license or permit until notification of reasonable assurance or compliance.

Paragraph 4 of subsection (c) provides that the Federal licensing or permitting agency may suspend or terminate a license or permit for any facility or activity that has been found by a court of competent jurisdiction to be in violation of applicable water quality standards. It is the intent of this paragraph to require the suspension or revocation of the permit by a Federal licensing agency unless the court order provides for remedial action that will bring about compliance with water quality standards. Court action is specified in order to assure consistency with existing enforcement provisions of section 10(c) (5) of the act and similar State procedures.

Paragraph 5 of subsection (c) simply provides that it is the intent of section 16 that Federal departments and agencies shall comply with applicable water quality standards pursuant to subsection 16(a) and (b) and that, consistent with our constitutional system, Federal agencies are not considered applicants pursuant to subsection 16(c).

Paragraph 6 of subsection 16(c) provides that those facilities actually being constructed under a Federal construction license or permit issued prior to the date of enactment of the Water Quality Improvement Act of 1969 will not be required to obtain certification for any Federal operating license for 2 years after the date of enactment. In addition, paragraph 6 provides that any operating license issued

during such 2-year period shall terminate at the end of such period unless certification is obtained.

In all cases not covered under paragraph 6 of subsection 16(c) and where there is an application for a Federal license or permit subject to subsection 16(c) pending on the date of enactment of the Water Quality Improvement Act of 1969, paragraph 7 provides that licenses or permits issued within 1 year of the date of enactment will not require certification for 1 year following the date of issuance, providing however that such license or permit shall be revoked at the end of 1 year unless the activity or facility has obtained certification.

While the provisions of section 16(c) are directly related to the existence of applicable water quality standards, the committee intends that it should be abundantly clear that no certification shall be required where water quality standards do not exist. As discussed later, only one State has the type of temporary turbidity standards which might be considered applicable to dredging and disposal of dredge spoil.

The effect of paragraph 8 is to not require certification of compliance with water quality standards as a precondition of a dredging permit until such time as the States have in fact developed water quality standards applicable to that activity. But dredging is only an example. In a number of States, standards have not been developed for intrastate waters. Until such time as standards are adopted no certification pursuant to section 16 will be required. In other States, standards subject to the approval of the Secretary have not been submitted for certain pollutants.

It is the intent of paragraph 8 to provide, in addition to clarification on the question of noncertification, an orderly procedure whereby Federal licensees and permittees can comply with water quality standards at the time such water quality standards are adopted. At any time following the development of water quality standards for an activity, an applicant for a new license or permit would, of course, be subject to the other provisions of section 16(c).

The enforcement procedure set forth in subparagraph (b) of paragraph 8 is identical to that procedure set forth in paragraph 3 of this subsection (c).

Subsection (d) makes it clear that none of the provisions of section 16 should be interpreted as limiting any other provision of law relating to water quality. Thus, the provisions of the Fish and Wildlife Coordination Act, for instance, and administrative arrangements executed thereto are in no way limited by this section. The subsection also requires the Secretary to furnish, on request, information on water quality standards to relevant agencies, individuals, and applicants.

Subsection (e) of section 16 recognizes that the application of section 16 to dredging and filling activities under permit from the Corps of Engineers will often require the use of spoil disposal areas rather than open water disposal. In order to make Federal spoil disposal facilities available to all dredging operations, subsection (e) authorizes the Corps to permit the use of such Federal area by private dredgers and charge for such use.

MANPOWER TRAINING

As part of the Clean Water Restoration Act of 1966, the committee asked for a report on the manpower needs of the Nation's water

[p. 30]

pollution control program. That report (S. Doc. No. 89–49) showed that there is a clear and present need for waste treatment plant operators; that present training opportunities are not adequate to provide for the widespread upgrading of skills needed, and for the large numbers of new operators which will be required over the next few years; and that training for operators in the past has mainly been limited to short courses conducted by State and local agencies, with main reliance being placed on informal on-the-job training.

This kind of training was inadequate in the past and certainly will not provide for current needs and those in prospect. Enlarging and improving the operator work force is a direct and efficient means of achieving increased water pollution abatement. Many existing waste treatment plants are operating well below their reasonable potential, thereby causing unnecessary pollution of the Nation's streams. Once the investment for constructing a plant is made, its potential for cleaning our water should not be diminished by failure to provide for its efficient operation.

Achieving a competent work force containing an adequate number of well-trained operators involves at least three related elements. First, adequate training opportunities must be made available. This amendment deals with that aspect of the manpower problem. The committee realizes that this is not a total solution to the problem, but specific legislative action is clearly appropriate. The two elements discussed below require further study.

Second, the need for higher pay, advancement opportunities, increase in civil service coverage and enhancement of job prestige needs to be determined. Making the occupation more attractive should enable local governments to recruit more able trainees—persons who will be able to take full advantage of training opportunities. The improved pay and other job conditions should enable local governments to retain competent employees; the alternative is to lose them

to higher paying positions elsewhere. This goal must be achieved if full benefit is to be received from training programs. The Federal Water Pollution Control Administration should study several alternative methods of achieving improvements in pay and other job conditions, and report the results of that study to the Congress in the September 30, 1970, report described below.

Third, the committee believes it would be of value to determine if mandatory operator certification is necessary and feasible. A study would provide a basis for defining minimum levels of education and experience needed to assure satisfactory plant operation. Mandatory certification could provide standards by which the performance of individual operators can be judged. The process of establishing standards would show what reasonably can be expected from operators. In the September 30, 1970, report, the Federal Water Pollution Control Administration should indicate any need for and, if recommended, means of attaining mandatory operator certification.

This section provides for a pilot program of grants for individual training projects to upgrade skills of existing operators and train new entrants to the field of waste treatment plant operation. This program is to be carried out in cooperation with governmental units, educational institutions and other organizations, with the Secretary entering into individual agreements for each training project. It is intended to

[p. 31]

supplement, rather than supplant, current operator training efforts, including those financed through Manpower Development and Training Act funds. Authorizations for this purpose are $5 million for fiscal year 1970 and $7.5 million for fiscal year 1971.

Several points concerning the new proposed program should be emphasized:

First, the committee intends that the responsibility for carrying out the training would remain where the varying particular needs are best understood, which is the State and local level. Funds would be provided on a project-by-project basis by the Federal Government, which would also provide technical assistance with curricula and teaching methods, but the projects themselves would be planned, developed, and carried out at the State and local level by non-Federal organizations. Such a project-by-project approach should be relatively uncomplicated to administer. As the States develop their capabilities to plan and implement operator training programs it may become desirable to fund this type of program by a system of grants to the States.

The committee intends that this new program not be limited to new operators. It recognizes the fact that many of the existing operators

need extensive training to enable them to perform their jobs efficiently. Extensive skill upgrading must be accomplished if we are to get the full benefit from the massive investments we have already made in waste treatment plants.

This program is aimed specifically at personnel involved in the actual operations of a waste treatment plant, particularly the position referred to as an "operator". This program is not aimed at professional level employees, such as an engineer who might be in charge of a large plant. Other programs exist for training at that level.

Implementation of this section should not supplant training projects currently being encouraged by the Federal Water Pollution Control Administration to qualify for funding through the Manpower Development and Training Act. The Federal Water Pollution Control Administration's activity in the Cooperative Area Manpower Planning System should continue, and FWPCA should continue to serve as a national contractor for MDTA funds. This proposed program would supplement the MDTA efforts. An additional program is needed in order to provide FWPCA more flexibility in meeting training needs.

Employment in waste treatment plants, especially in urban areas, can provide much-needed skilled job opportunities that many people need to begin to participate more fully in the economic life of this country. However, in some cases the use of the MDTA mechanism is not feasible. For example, a particular community might have enough operators, but need to improve their skills. That community might not be able to take on a sufficiently large enough number of previously unemployed and underemployed to enable the training project to qualify for MDTA support. The Cooperative Area Manpower Planning System, a Federal interdepartmental effort in which the States finally must decide about which training projects to include in their MDTA training program, lacks the ability to cope with the operator problem by itself. FWPCA should continue to use MDTA funds wherever practical. The new grant program proposed in this amendment would give FWPCA a much needed alternative to that source of funding for use in cases not amenable to MDTA funding.

[p. 32]

This section provides for the development and maintenance of an effective system for forecasting the supply and demand of the various categories of operator, technician, and professional level personnel needed in the water pollution control effort. This system would be broader than the other portion of this section which deals with the operation and maintenance of waste treatment plants. Effective manpower planning requires knowledge of the number of

people in the field, how many need training and how many new recruits are required. This kind of data must be gathered first at the local level, then carefully pulled together to provide a picture of national needs. Only when such a systematically developed national needs picture has been developed, and periodically updated, can an effective national action program be formulated.

This proposed amendment would provide for the development of such a system. It would provide funds to enable FWPCA to enter into agreements with public and private organizations and individuals to provide this information. The details of an appropriate system are to be worked out by FWPCA; $1.5 million is authorized for fiscal years 1970 and 1971 for this purpose.

A report to be submitted to Congress by September 30, 1970, is required. That report should cover the achievements under the provisions of this amendment and accomplishments of other training programs in the water pollution control field. It should contain estimates of future manpower needs and recommended improvements in training programs. Also it should include a discussion of the need for enhancing the attractiveness of the operator occupation. Finally, it should include any legislative recommendations deemed appropriate.

CLEAN LAKES

Because freshwater lakes occupy the lowest parts of the topography, runoff makes the lake a "catchall" of every conceivable type of pollution that is water-transportable. And because it is a catchall, the biological problems and solutions of lake pollution are complex in the extreme, and will yield only to concentrated, coordinated basic and applied research.

Because lakes, in contrast to streams, cannot "cleanse" themselves by action of running water, whatever pollution enters a lake largely remains there.

In contrast to study of the causes of stream pollution, very little research has been done in the basic causes and removal of lake pollution. In answer to most of the questions as to the causes of increasing degradation of freshwater lakes, the scientists must reply "we don't know."

The committee believes that answers are needed, for an increasing number of the Nation's estimated 100,000 lakes are dying at an accelerated rate and these lakes represent a literally irreplaceable resource of water supply, recreation, fish and wildlife habitat and other economic benefits.

All lakes die (eutrophy) eventually as runoff and sedimentation change the biological balance of the lake; however manmade chemicals and pollutants speed up this eutrophication radically.

Eutrophication is characterized by an accumulation of plant nutrients, decreased depth, increased temperature, all leading to in-
[p. 33]
creased fertility and the proliferation of algae. Algae may render water supplies toxic and impart offensive tastes and odors to waters.

In "accelerated eutrophication" the most important of the pollutants are phosphates and nitrates which act as plant nutrients. They come from agricultural runoff of fertilizers, runoff from livestock feedlots, industrial wastes, detergents, domestic and food wastes, and treatment plant effluent.

Lake eutrophication is further aggravated by silt from agricultural land and building construction. As a lake becomes shallower, it becomes warmer—thus decreasing oxygen solubility and increasing plant growth and deoxygenation of the lower levels of the lake. Consequent prolific growth of algae and rooted plants depletes further the oxygen needed for decomposition of wastes, which accumulate and putrify on the bottom of the lake. This, together with the rooting of algal mats piled up on the shoreline, produce the highly unpleasant odors of hydrogen sulfide.

Federal support for research efforts is essential to determine the parameters of lake eutrophication. Adequate technology to deal with the problems of diffuse sources, natural and man influenced, which characterize the principal contributors to eutrophication, is not available nor is the technology to clean up already polluted lakes. Only lagooning has been suggested as feasible for control of feedlot wastes, and no remedies exist for agricultural runoff, beyond presently practiced soil conservation methods.

The only techniques of control and restoration applied with any success have been chemical eradication of aquatic plants and this offers only temporary relief. In addition, chemical treatment with substances such as copper sulfate often have serious side effects in destruction of fish life. Dredging appears to have promise but at present it is almost prohibitively expensive on any large scale. Dredging and cleaning a lake costs a minimum of 25 to 50 cents per cubic yard of material removed. Deepening an acre of water by only one foot would cost between $4,000 and $8,000; to dredge a 10,000-acre lake by one foot would cost from $20 to $40 million. No single community could bear such an expense, and less expensive means of lake restoration must be found.

Several such promising methods are possible, including the development of algal predators; application of various chemical precipitators, harvesting of algae and other vegetation to remove nutrients from an euthropic lake, and various means of introducing free oxygen into eutrophied lakes.

At present, however, no research facility exclusively devoted to basic and applied research in the causes and cures of lake pollution exists in the world, although individual research in various facets of the problem is ongoing in Government and university facilities. This section would have the effect of providing a means to concentrate presently scattered efforts into a coordinated attack on lake pollution; its prevention and cure.

The committee expects that funds to implement the provision of this new research directive shall be made available from the general section 5 authorization and that implementation of this area of research will receive a high priority.

[p. 34]

OIL POLLUTION RESEARCH

A great deal of testimony, especially in light of the difficulties associated with cleanup in Santa Barbara, dealt with the inadequacy of technology to effectively contain and remove oil spills. Several witnesses noted that the use of straw to absorb oil on the water and on the beaches was a technique which has been available for centuries. More modern techniques such as various types of booms were often inadequate due to the nature of the tides and winds in the Santa Barbara Channel. A variety of dispersant chemicals were applied but, because so little information existed on potential adverse ecological effects, the Department of the Interior was properly reluctant to allow uncontrolled or excessive use.

Dispersal of oil as a method of cleanup must be evaluated on the basis of possible long-term effects. Once oil is dispersed, there is potential for incorporation of hydrocarbons in aquatic organisms harvested for human consumption. The committee expects the Secretary to carry out research activities on the potential effects of accumulation of hydrocarbons in the food chain in order to determine the desirability of cleanup methods which do not involve actual physical removal of the oil.

The committee believes that developing effective techniques to deal with oil spills and making those techniques readily available at appropriate locations throughout the country is of highest priority.

This section places the primary responsibility for research in the Department of the Interior but the committee intends that the Secretary should transfer some research functions and funds to the Coast Guard for those activities over which that agency has significant responsibility.

The Department of the Interior must develop information on the effects of oil spills and chemicals and other methods used to disperse oil. The Department also should be investigating improved methods

to control oil discharges in connection with ongoing efforts to achieve and maintain compliance with water quality standards.

The committee intends that the Coast Guard should carry out necessary research and development to fulfill its responsibilities imposed by this section. More sophisticated techniques and equipment are necessary before the Federal Government can hope to clean up an oil spill effectively. Studies are underway to determine what cleanup methods now available are most effective, what other possibilities exist, and what general approaches, including no cleanup at all, are warranted under different circumstances. Methods of preventing pollution by shipping activities are also under study. These studies need to be expedited and should receive priority in planning future budget requests.

FACILITIES LAND ACQUISITION

When the water pollution control program was administered by the Department of Health, Education, and Welfare, the FWPCA utilized the general land acquisition authority applicable to all programs under the auspices of that agency. The Interior Department, however, has historically been granted land-acquisition authority on a program basis only. Accordingly, FWPCA, lacking such authority in its organic act, has not been able to acquire lands in connection

[p. 35]

with its research program and demonstration projects. This bill would place the water pollution control program on the same basis as it was before its transfer from the Department of Health, Education, and Welfare by providing authority to acquire lands and interests therein for the limited purpose of section 5 of the act and for demonstration projects.

EXTENSION OF GENERAL RESEARCH AUTHORIZATIONS

This bill would also extend through 1970 and 1971 the research and development, training, and investigations authorizations of section 5 of the Federal Water Pollution Control Act at the current annual level of $65 million. Section 105 would extend the annual grant and contract authorizations of $60 million in 1970 and 1971 for research and demonstrations in new and advanced waste treatment methods, joint municipal-industrial waste treatment, new methods to treat industrial wastes and the problems of storm and combined sewers, as provided in section 6 of the Water Pollution Act.

These authorized extensions would cover all research, development, and demonstration activities, including in-house research efforts and the administration and management of laboratory facilities. Field investigations and surveys, technical assistance and support

would be included. FWPCA's pollution surveillance effort is also part of the section 5 authorization. This is a survey and inventory program to include 900 stream and 1,500 open water sampling stations, in coordination with other State and Federal agencies, as part of the water quality standards program and in order to identify new pollution trends, sources, and types before problems develop. Research fellowships, training grants, and other in-house training activities would be continued at current levels. Also the authorization for estuarine research is extended at the current level of $1 million for one year.

HEARINGS

The Subcommittee on Air and Water Pollution, Committee on Public Works, has over a 3-year period, conducted 23 days of hearings, heard 166 witnesses, received 121 statements for the record, and compiled a total of 2,711 pages of printed testimony, statements, and exhibits.

During consideration of S. 7 as introduced on January 15, 1969, the committee heard 90 witnesses, including reappearances, received 79 statements for the record, and compiled 1,568 pages of printed testimony in 13 days of hearings.

Statements were filed by and witnesses included representatives of the Department of the Interior, Department of Transportation, Atomic Energy Commission, State and local governments, conservation groups, organized labor, affected industries, and interested individuals.

TITLE II—ENVIRONMENTAL QUALITY

SUMARY AND DISCUSSION OF MAJOR PROVISIONS

Our contemporary culture, primed by population growth and driven by technology, has created problems of environmental degradation [p. 36] that directly effect all of our senses: noise, odors, and toxins which bring physical pain and suffering, and ugliness, barrenness, and homogeneity of experience which bring emotional and psychological suffering and emptiness. In short, we are jeopardizing our human qualities by pursuing technology as an end rather than a means.

Too often we have failed to ask two necessary questions: First, what human purpose will a given technology or development serve? Second, what human and environmental effects will it have? These questions require responses before we implement and distribute the products of our new technology. The facts are well documented. The committee has studied the application of these problems in the

areas of air and water pollution, solid waste, highway construction, water resource development, and economic development.

The message which has emerged from these investigations and from all studies of environmental problems, whatever their origin or focus, is essentially the message of ecology—that we, and all of our activities, are integral parts of a natural system. We cannot consider any human activity independently of this system if we hope to achieve a quality of life worthy of the name.

The Subcommittee on Air and Water Pollution has been instrumental during the last six years in forming a national environmental policy. The subcommittee's work has resulted in the Clean Air Act of 1963, and the 1965 and 1966 amendments; the Air Quality Act of 1967; the Water Quality Act of 1965; the Clean Water Restoration Act of 1966; and the Solid Waste Disposal Act of 1965.

The basis for the legislation is a strong Federal-State-local partnership. The States have been delegated the primary responsibility to protect and enhance the quality of air and water within their boundaries, and, in cooperation with other States, to protect and enhance the quality of air and water within resource areas common to those States. The Federal Government has the responsibility to improve our understanding of environmental threats, the authority to act where States fail or are unable to fulfill their obligations and the obligation to protect the environment in its own activities.

The laws provide Federal support for improved organization of State and local abatement programs, planning activities, and the research, development, and demonstration of new control technologies. The programs authorized under the acts are based on the concept of prevention and are designed to reduce discharges into the atmosphere and public waterways. They are limited only by the effectiveness of existing technology and by the outmoded philosophy of waste disposal rather than waste management and reduction.

The legislation seeks to promote and encourage the development of policies and institutions geared to the regional nature of environmental problems. Whether or not it succeeds depends upon the degree of commitment and cooperation of State and local governments and the taxpayer and citizen. The responsibility is a heavy one.

The committee and the Congress are pledged to a national policy of enhancement of environmental quality, a policy based on the concept that man and his environment are interrelated and that a quality environment is necessary to the improvement of living standards for all men.

[p. 37]

The committee is committed to a review of legislation under its jurisdiction and expects to initiate review proceedings in all of its

subcommittees during this Congress. Sections 201 and 202 of title II of S. 7 are provisions to expedite this review. However, jurisdictional questions in the Congress often frustrate effective review of administrative practices and duplication.

Essentially, institutional fragmentation is a result of legislation that grants authority to conduct, regulate, or otherwise administer a particular environmental program or policy wtihout granting corollary authority and direction to consider such program or policy in the context of the total environmental system.

Institutional fragmentation, however, is subject to remedies other than a modification of statutory authority, once Congress has manifested its will that all authorized activities be undertaken in harmony with environmental quality. With respect to Federal and federally assisted public works projects, it is the committee's judgment, as expressed in section 201 (b) (1), that Congress has so expressed its will in prior acts and statements of intent.

Existing pollution control legislation is directed toward the development of an operational national policy. The Environmental Quality Act would extend the Federal government's environmental management effort in several important areas. It would require that all federally supported public works projects and programs be planned and developed in full recognition of their ecological impact. Technological and economic developments which produce short-term benefits at the expense of the long-term health and productivity of the environment would be rejected.

For example, the location, design, and development of the Corps of Engineers civil works projects should be evaluated to take into full account the ecological implications of the decisions involved. Alternatives should be chosen which minimize deleterious effects.

A major need for improved environmental management in relation to public works exists in our Federal-aid highway program. The Interstate Highway System has served to link our urban centers in an ever-increasing flow of commerce, goods, and people. But the roads, and the economy they support, are not ends in themselves. With more environmental planning they can better serve the needs of our people, through respect for the integrity and future development of communities and by attention to the protection of natural beauty and resources.

Our highways must be brought into harmony with the communities and countrysides they traverse. Too often this need has received little more than lip service. Locations have been chosen to serve the more limited benefits of the user rather than the needs of the community at large.

Cities such as Baltimore and Chicago are attempting to manage

the environmental impact of highways by employing urban design concept teams. This approach involves engineers, architects, sociologists, urban planners, economists, and other specialists to form a coordinated team. The team examines the highway corridor in a framework which emphasizes overall community goals and plans.

Although still experimental, this approach has proven worthwhile and will provide criteria to aid others in evaluating urban transporta-

[p. 38]

tion needs in terms of social, esthetic, and economic values. The knowledge gained should yield new methods and techniques of assistance in the solution of complex urban problems.

Ugliness, clutter, litter, the lack of parks and open space, and inadequate recreational opportunities are among the basic components of the crisis in America's cities. An effective response to the urban crisis requires a series of measures responsive to citizens' needs for housing, health and sanitation, education, employment, transportation, and pollution abatement. The committee also feels that provisions must be made for improving the appearance of cities, for new urban parks and more open space, and for creating attractive and diverse recreational experiences.

Federal-aid highway legislation of the 1960's has created highway beautification programs and has strengthened the protection of parklands. It also requires the consideration of social and environmental factors and community goals and objectives in the location of proposed highway projects. Such policies can only be carried out in coordination with other agencies.

Recognizing the need in water resource programs for "developmental planning" rather than "response planning," the Committee on Public Works initiated the first program in this area in the Appalachian Regional Development Act of 1965, which authorizes regional water resources planning programs for the Appalachian region. This concept and this approach should be extended to other regions of the country. Water resources development could be used to reverse the trends of population movement from rural to the highly urbanized areas. The Appalachian Regional Development Act also provides for the development of programs for mine land reclamation and pollution control.

In shaping these policies the committee has worked to dispel any concept of any component of the environment—air, water, or land—as an infinite reservoir, with an infinite capacity to dilute, disperse, and assimilate waste. Our resources are limited, and we have overdrawn our bank account.

More and more public officials and individual citizens recognize the

need for integrated national policies for the environment. This recognition stems from the facts that we are confronted with (1) problems of accelerating environmental degradation; (2) the inadequacy of our government agencies, public and private institutions to deal with environmental degradation; and, (3) a reluctance to make the necessary investments of money and resources to do the job.

The committee has focused on several measures designed to remedy institutional fragmentation in the area of environmental quality. There has been some discussion of reorganizing the Federal executive branch in order to put all environmental agencies under one department. This may or may not be advisable, but, as the committee learned so dramatically from the Santa Barbara incident, the fact that the Geological Survey, the Fish and Wildlife Service, and the Federal Water Pollution Control Administration are located in the same Department did not result in adequate consideration of the environment in the Outer Continental Shelf leasing program.

The committee has concluded that the problems are more urgently management problems than they are organizational problems. There-

[p. 39]

fore, it has proposed under this title an Office of Environmental Quality to provide the President with the management capability necessary to bring coherence and consistency into the environmental activities of the Federal Government. The committee has studied the bills, S. 1818, introduced by Senator Tydings, and S. 2391, as well as other legislative proposals along with the President's establishment of a Cabinet Environmental Council, and has concluded that an independent environmental staff in the Executive Office of the President is necessary if all Federal programs are to be effectively coordinated and administered to carry out the Nation's policy of environmental enhancement.

In creating a Cabinet Council on Environmental Quality, the President established a mechanism that, as described by Dr. Lee DuBridge, Science Adviser to the President, is an action organization to implement Presidential decisions and policies. Such action is commendable. It puts into focus the limited management tools the President has at his disposal to make the Council function effectively and creatively.

The Office of Science and Technology is presently the staffing organization of the President's Council and is the general adviser to the President on matters of environmental quality. Unfortunately, the Office of Science and Technology has widespread responsibilities, is thinly staffed, and, in turn, must look to the departments and agencies of the Federal Government for staff assistance. This, of course, es-

tablishes a system in which the advice and assistance the President receives, and on which he instructs or directs the agencies and coordinates their activities, ultimately comes from the agencies themselves. Such a system, no matter how well intentioned, cannot be expected to produce critical and independent review of the Federal establishment, and represents a poor management structure for which the President is dependent on Congress to change.

The problems associated with environmental quality are not entirely scientific and demand a broader range of professional staff than is found in the Office of Science and Technology. Environmental quality issues and answers require legal, economic, social, management, and systems analysis as well as scientific study. Consequently, the present staff and the historical orientation of the Office of Science and Technology may not be adequate to satisfy the demands that proper evaluation of environmental quality present.

One unavoidable product of the technological society in which we live is the occurrence of events or conditions that demand immediate analysis and consideration in the highest levels of government. In recent months there have been several examples of these events: The Santa Barbara disaster, ocean disposal of certain military weapons, and fish kills from pesticides. In each instance, because of insufficient staff, the President has found it necessary to either appoint task forces of Government agency personnel or seek the assistance of private advisers. Private advisers are certainly necessary, but they are not in a position to give the President the depth of continuous staff support he needs for the development of sound policies. An independent staff in the Executive Office with immediate access to all information in the Federal establishment and with appropriate standing advisory committees will provide the policy guidance necessary for continuous review and advisory services for the President.

[p. 40]

In addition, this legislation authorizes the Director of the Office of Environmental Quality to convene, every 2 years, a forum on environmental quality. It is the committee's intent that these forums be organized in a manner to enable the most competent citizens, private or otherwise nonfederally employed, including those who are controversial, to critically analyze and otherwise evaluate the environmental policies, activities and trends of the Nation.

A great weakness in the administration of Federal programs is a management weakness: an information, coordination, consultation, timing, and research hodgepodge. Many agencies have begun to recognize this internally and have taken steps to provide a remedy, such as the establishment of an Assistant Secretary for Urban Sys-

tems and Environmental Affairs in the Department of Defense, and a proposed Office of Ecology in the Department of Interior. This growing practice must be complemented by an overall management, review, and analysis function in the Executive Office of the President. More importantly, the functions of these new departmental offices concerned with the quality of the environment need constant and effective coordination. That coordination can be provided by the newly created Council only if independent staff assistance is available.

The most difficult task facing the President and the Congress, is the review and analysis of the administration of the total environmental programs and policies activities of the Federal Government, a function that needs to be coordinated from the vantage point of the Office of the President. This function cannot be carried out on an ad hoc or part-time basis. The committee strongly feels that this function requires a sufficiently large and competent, independent staff, unaffiliated with any other Federal agency. Only in such a manner will the President and the Nation receive a close review and analysis of the environmental activities of the Federal Government.

The President's Executive order establishing the Cabinet level Environmental Quality Council and the Citizens' Advisory Committee on Environmental Quality provides a mechanism to coordinate the environmental protection programs enacted to date through a policy of comprehensive Federal consideration of all aspects of environmental quality in the utilization of natural resources.

One of the questions raised about the potential effectiveness of the President's Council has been the lack of advice independent of the agencies represented on the Council. As noted above, the committee does not believe the Office of Science and Technology can meet that need. An Office of Environmental Quality would provide the independent staffing required by the Council and would make available to the President the professional competence and facilities necessary to the substantive review and analysis of all matters relating to the environment. In addition, the Office would be required to report on environmental issues to Congress, the Council, and the public.

The bill reported by the committee does not tell the President how to organize his administration to deal with environmental problems. It provides him with staff support for whatever arrangement he determines most appropriate to his approach to the administration of the Executive branch.

One of the principal advantages of this legislation is the recognition that progress can be made in enhancing the quality of the environ-

[p. 41]

ment only if that policy has the full support of both the President and the Congress.

The Office of Environmental Quality should increase the capacity of the President to support that policy, and the Congress needs to give further attention to its capacity to deal with the varied and interrelated problems which comprise our environmental crisis.

Man has now forced his way out of his environment. We continue to flex our muscles and look to further growth, but our world will not grow with us.

In some future time, we may find another environment in which we can live without artificial assistance, but for the foreseeable future man has but one home and one natural environment. If we do not begin a coordinated effort to repair the damage we have caused and prevent greater damage in the future, man may become an ecological orphan—faced with an environment which cannot support simple human existence, much less the growing technology on which we have thrived.

The committee feels that the Environmental Quality Improvement Act of 1969, title II of this legislation, will encourage a focus on this problem and require effective action by Federal agencies which have not lived up to their responsibilities in the past.

EXCERPTS FROM HEARINGS ON ENVIRONMENTAL QUALITY

During the past 6 years, in the course of its work on environmental quality legislation, the Committee on Public Works has become increasingly concerned with the impact of federally aided programs and activities on the environment. The proposed section 16 under title I and title II are a logical extension of that concern and of the findings of the committee, particularly as they relate to the 1968 and 1969 hearings on thermal pollution. The following quotations from hearings and reports illustrate the extent of the committee's concern and underscore the relevance of title II to the legislative program developed by the committee.

> During the 88th Congress, the Senate Committee on Public Works found an increasing amount of its activity shifting from the consideration of traditional project legislation to substantive matters. Increased emphasis on the conservation of air and water resources has been answered by means to prevent pollution. Increased concern for lagging economic growth in certain areas of the Nation has produced public works programs designed to aid economic development. Our highway program is being examined for its total community value.
>
> * * * * * * *
>
> Rivers and harbors measures, themselves, are less and less simple one-purpose projects. Previous Congresses set the stage we are moving onto now where comprehensive planning and

multipurpose developments are required. The interrelationship of water resource development with economic growth is

[p. 42]

becoming more the rule than the exception as demonstrated by the Appalachia bill reported by the committee.

The Appalachia bill marks a sharp departure in the responsibilities of the committee which first began with consideration and the passage of the Accelerated Public Works Act.

Appalachia is the first extensive legislation identifying dams, reservoirs, roads, sewage treatment plants, sewers, buildings, and other public works as the physical requirements for economic growth. Accelerated public works recognized the value of public works as an antidepression measure. Combined with Appalachia the building of public works provides not only immediate employment but the means for long-term general improvement.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 88th Cong., p. v.)

AIR AND WATER POLLUTION

The concern of the Committee on Public Works for environmental quality led to the establishment of a special subcommittee on air and water pollution during the 88th Congress on April 30, 1963.

The national water pollution control program has for its primary objective the enhancement of the quality and value of the Nation's water resources. This can only be done by preventing, controlling, and abating water pollution.

The Federal Water Pollution Control Act is the basic statutory authority for Federal participation in the national program. The act authorizes the administration and conduct of programs directed to the achievement of the important national water quality goal. The bill provides for specific expression of the act's purpose to establish a national policy for the prevention, control, and abatement of water pollution through effective administration of its comprehensive authorities.

(Federal Water Pollution Control Act Amendments of 1965, S. Rept. 89–10, p. 4.)

(1) Authorize the initiation and acceleration of a national research and development program for new and improved methods of proper and economic solid waste disposal, reducing the amount of waste and unsalvageable material and recovering and

utilizing potential sources of solid waste, and provide technical and financial assistance to State and local governments and interstate agencies in planning, developing, construction, and conduct of solid waste disposal programs.

(2) Provide that not to exceed 25 percent of funds appropriated for this purpose may be made for grants-in-aid, or to contract with, public or private agencies and institutions and to individuals for research and training.

(3) Authorize grants to State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of any project which will demonstrate a new or improved method of disposing of solid waste. * * *

[p. 43]

(4) Encourage cooperative activities by States and local governments in connection with solid waste disposal programs, encourage planning, and encourage the enactment of improved, and, so far as practicable, uniform State and local laws governing solid waste disposal.

(5) Authorize up to 10 percent of funds available for the solid waste disposal program to be used in connection with the grants for support of air pollution control programs of the Clean Air Act. Grants would be made in an amount of up to two-thirds of the cost of making surveys of solid waste disposal practices and problems within the jurisdictional areas of appropriate agencies, and development of solid waste disposal plans. * * *

(Clean Air Act Amendments and Solid Waste Disposal Act. S. Rept. 89–192, p. 2–3.)

* * * requires that any Federal department or agency having jurisdiction over any building, installation, or other property shall discharge waste only in compliance with standards * * *

* * * authorize appropriations to be made to the appropriate Federal departments or agencies for the installation, maintenance, and operation of water pollution control facilities which have been designed to meet standards prescribed * * *

* * * authorizes the Secretary of Health, Education, and Welfare, upon request by a department or an agency, to train personnel to operate and maintain water pollution control systems.

There are provisions in existing law which authorize training in technical matters relating to the cause, prevention, and control of water pollution to personnel of public agencies and other persons of suitable qualifications. However, the committee is concerned that such authority may not be construed or utilized

for the purpose of developing skilled personnel to operate and maintain treatment plants, particularly in new facilities.

* * * would provide for a system of reporting to the Secretary of Health, Education, and Welfare by the Federal department or agencies which have jurisdiction over buildings, installations, and other property, and which discharge waste. In addition, the Secretary of Health, Education, and Welfare would report to the President and the Congress with respect to effectiveness of actions taken by those Federal departments or agencies in controlling water pollution.

* * * * * * *

* * * requires that all Federal departments and agencies cooperate with the Department of Health, Education, and Welfare, and with air pollution agencies in controlling air pollution discharges from any Federal building, installation, or property. Further, the Secretary of Health, Education, and Welfare is authorized to establish classes of potential pollution sources for which any Federal department or agency

[p. 44]

would be required to obtain a permit from the Secretary before discharging any matter into the air.

* * * authorize appropriations to be made to the appropriate Federal departments or agencies for the installation and maintenance of air pollution control devices as are certified by the Secretary of Health, Education, and Welfare to be adequate to meet the limitations on emissions prescribed by him. In addition, it directs such Federal departments or agencies to request funds to make necessary installations to meet the limitations for allowable emissions.

* * * require that, after the effective date of this section, no Federal department or agency shall construct, prepare for use, or expand facilities without the inclusion of air pollution control measures which the Secretary of Health, Education, and Welfare considers to be adequate.

* * * authorizes the Secretary of Health, Education, and Welfare, upon request by a department or an agency, to train personnel to operate and maintain devices or other means of preventing or controlling air pollution.

* * * provide that Federal departments or agencies keep the Secretary of Health, Education, and Welfare informed of air pollution control practices in effect at buildings, installations, and other property under their jurisdiction. They are also to inform the Secretary of the absence of, or failure to institute,

practices necessary and adequate to correct deficiencies and the reasons therefor. In addition, the Secretary is to report each January to the President and the Congress on the status and effectiveness of actions taken.

(Federal Installation, Facilities, and Equipment Control Act, S. Rept. 89–128, pp. 10–11.)

The prime purpose of the proposed legislation is to strengthen the Clean Air Act, to expedite a national program of air quality improvement, and to enhance the quality of the atmosphere to protect the health and welfare of our citizens against long-term hazards and immediate danger. Considerations of technology and economic feasibility, while important in helping to develop alternative plans and schedules for achieving goals of air quality, should not be used to mitigate against protection of the public health and welfare.

The objective of S. 780 as amended is to achieve clean air, and to do so through the establishment of sound objectives and feasible timetables. The committee's hearings indicated that those who contribute to air pollution share with all Americans the objective of cleaning up the air, and that the differences of opinion expressed were addressed primarily to how that objective best could be accomplished. Through a full understanding of the etiology, the probabilities, and the severity of health and welfare hazards involved and with the strengthening of the technological and economic capabilities for abatement in both the public and private sector of our economy, the needs of public health and welfare without serious or excessive economic dislocation can be met.

[p. 45]

This legislation contains imaginative and far-reaching opportunities for air pollution control and abatement, but the bill is complex, as are the problems of environmental control. The problem of air pollution is neither local nor temporary. It is a universal problem, and, so long as our standard of living continues to increase, it will be a permanent threat to human well-being.

S. 780, as amended by the committee, will provide a comprehensive, broad-based attack on the Nation's air pollution problem while expanding the potential of control technology and identifying the health and welfare effects of air pollution. Its objective is the enhancement of air quality and the reduction of harmful emissions consistent with maximum utilization of an expanding

capacity to deal with them effectively. At the same time, it provides authority to abate any pollution source which is an imminent danger to health, by whatever means necessary.

(Air Quality Act of 1967, S. Rept. 90–403, p. 2.)

The President's Executive order on water pollution and section II of the Federal Water Pollution Control Act are both directed at water pollution control activities by Federal agencies.

Nuclear powerplants are licensed by a Federal agency and therefore can and should be expected to conform with applicable water quality standards and a concept of water quality enhancement.

But the committee has found that Federal agencies are not assuming the proper leadership role—that often their activities actually condone pollution rather than encourage water quality enhancement.

Thermal pollution is only one case. There are numerous Federal agencies which need to exercise more leadership both in their own activities and in the activities over which they are responsible.

Only in this way can the Federal effort in pollution control appropriately relate to the expanding vigor of the State programs. This expanded Federal role is especially essential, at a time when, because of a serious national budgetary restriction, full Federal funding of construction activities may not be possible.

(Opening statement at hearings of the Senate Committee on Public Works on Thermal Pollution, 1968, pt. 1, pp. 1–2.)

While water quality standards, now set and approved for most interstate waters, will cause installation of such control facilities as are necessary for compliance, serious question has been raised regarding the role of Federal agencies which authorize or assist such activities without requiring compliance with applicable standards.

In order to ascertain the extent to which Federal agencies are conducting such activities, the committee began, early last year, hearings on the role of the Atomic Energy Commission relative to control of waste heat discharges from federally licensed nu-

[p. 46]

clear powerplants. The hearings indicated several important problems.

1. The Atomic Energy Commission does not consider its legislative authority sufficient to condition licenses relative to water quality standards for other than radioactive materials;

2. The AEC regulations specifically prohibit intervention or testimony on the subject of pollution other than radioactive discharges;

3. State agencies charged with water pollution control responsibility question their ability to require control of nuclear powerplant waste heat discharges once that plant has been licensed for operation by a Federal agency, believing that the existence of the Federal license might preempt State regulatory authority;

4. Thermal pollution is of sufficient concern to require consideration prior to final selection of a steam electric powerplant site both because of the potential adverse effect of heated water discharges on the receiving streams and because of the land requirements associated with construction of cooling facilities if required; and

5. Waste heat discharges can seriously and adversely affect the ecological balance of the receiving waters and, though much remains to be learned about these effects, a sufficient body of evidence exists to establish standards and require control.

The information received during the hearings suggested a need for the Federal Government to become involved at an early stage in water quality control by entities which receive Federal authorization or assistance.

On September 16, the subcommittee invited comment on the extent to which the electric utilities industry should consider environmental hazards in selecting powerplant sites. This question resulted from information developed during the hearings pointing out—

1. Few utilities have considered ecological effects of waste heat discharges either in relation to site location or operation of thermal generating stations;

2. Little, if any, investigation has been made by most utilities to determine ecological background of receiving waters;

3. Use of existing cooling technology for other than conservation of water has not been considered by utilities until after intense public pressure has been exercised; and

4. The general assumption seems to be that any risk of adverse ecological effects associated with thermal pollution

be taken by the public rather than the utility.

However, the correspondence which follows indicates that ecological effects are of significant importance to warrant early consideration in a utility's decision to construct new steam electric generating facilities.

(Summary statement on hearings of the Senate Committee on Public Works on Thermal Pollution, 1968, pt. 3, pp. 975–976.)

[p. 47]

What we are talking about is adding something to the environment that is not now added. Now, if it happens to be harmful we may be doing something that is irrevocable. If it happens to be good, so much the better. But by withholding any discharge or any such addition to the environment we are making no impact and that is the ideal situation to maintain until you get the answers. Unfortunately, we do need the additional energy, so we have the problem of how in the period during which we are trying to find the answers we minimize the possibility of harmful effects.

The fact that in some cases you may get beneficial effects does not necessarily justify taking the risk of harmful effects when you can withhold both until you get the answer.

* * * * * * *

We are going to have an argument in each case as to whether or not we know enough to impose a restriction. Well, I think that increasingly we have to take the point of view that if we don't know enough, then we don't know enough to permit the discharge.

If the point that we don't know enough justifies not imposing control, then it seems to me it also justifies not permitting the discharge.

At least I think we ought to take that perspective on every one of these plant location decisions. I don't think we can afford to take a position that until we know specifically what the harmful effects are, we have to assume that there is enough good to build a plant.

I think that is a wrong perspective. I think that we have to enlarge our area of knowledge as fast as we can so that we won't deprive ourselves of the necessary electrical energy, but I don't think we can just leave it an open door to permit this kind of development to continue without any restriction or restraint simply because we don't know all we ought to know about the harmful effects.

There is a change of perspective and I think we have to arm the Federal agencies and the State agencies, as we would under this legislation, with enough restraining authority so we just don't plunge headlong into a lot of problems that will plague us once we begin to know the full implication of what we have done.

(Comment by Senator Muskie at hearings of the Senate Committee on Public Works on Water Pollution, 1969, pt. 1, pp. 42–43.)

Legislation has been enacted to deal separately with the control and abatement of air, water, and land pollution. The enhancement of environmental quality has become a major national goal. The committee has now turned its attention to the need for environmental planning. As existing sources are brought under control, management of wastes and environmental quality can become a reality. As this possibility

[p. 48]

evolves, a policy must be defined relating to the responsibilities and rights in the use of air, water, and land resources.

The need for a policy relating to use of the air, inland, and coastal waters, and land resources is highlighted when it is realized that any single form of waste can be transformed to another form during handling and disposal. Solid waste, for example, may result in gaseous wastes when incinerated, liquid wastes when ground in garbage grinders, or remain as solid waste materials disposed of in landfills. This is but one example which suggests the need for an integrated policy for all forms of wastes rather than separate policies for solid waste disposal, air pollution control, and sewage disposal.

A policy of environmental quality management for all forms of wastes is clearly required. Such a policy need not suggest that the administration of these programs be combined, but in the absence of a combined administration, the need for an overall coordinated policy is even more urgent.

(Summary of Legislative Activities; Committee on Public Works, U.S. Senate, 90th Congress, p. 45.)

Environmental Quality

During the second session, the subcommittee held hearings on "Environmental Quality Management and Waste Management

Research." Legislation has been enacted to deal separately with air pollution, water pollution, and solid waste disposal, but a congressional policy directed at their interrelationship is less precise. These hearings provided an initial look at this interrelationship and the need to define a public policy relating to the responsibilities and rights in the use of air, water, and land resources.

These hearings provided an initial look into two areas. First, is there a need for a policy relating to the use and degradation of the air, inland and coastal waters, and land resources of the United States?

Second, are the current Federal research management policies and practices in air and water pollution, and solid waste disposal adequate to the problem? Enacted legislation requires the establishment and implementation of air and water quality standards on prescribed time schedules. Current technology will reportedly satisfy many immediate objectives such as municipal waste water treatment of control of airborne particulates. These hearings provided an initial look at long-term needs and the adequacy of control technology to insure compliance with prescribed time schedules. Particular attention was given to improvements in Federal research management practices which might expedite development of control technology.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 90th Cong., pp. 61–62.)

[p. 49]

RIVERS AND HARBORS AND FLOOD CONTROL

Public works for many years has been synonymous with flood control. But recently the simplicity of a flood control project has given way to the necessity of considering much more than a single factor when developing a reservoir program. As a result public works is becoming more and more a matter of water resources programming.

The Federal civil works program under jurisdiction of the Corps of Engineers, embraces the works for improving rivers, lakes, coastal areas, and harbors of the United States in the interest of navigation, flood control, hydroelectric power development, water supply, pollution abatement, recreation, beach erosion control, and other allied water purposes, which the committee has approved and the Congress authorized for accomplishment by the Corps of Engineers, Department of the Army.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 88th Cong., p. 5.)

It has long been recognized that flood control is only one of the purposes for which our water resources should be developed. Congress has recognized that full consideration should be given to a desirable improvement for the use and control of all the water resources, in the committee, the projects and basin plans included in this bill give full weight to the navigation possibilities; the development of hydroagricultural uses; the utilization or recreation potentialities in connection with reservoirs; the preservation of fish and wildlife; the abatement of stream pollution; the improvement of water quality; and the provision of improved sanitary facilities. The committee feels that a program for flood control and navigation would not be comprehensive or in the best interests of the Nation unless all these factors were considered.

(River and harbor, beach erosion control, and flood control projects, S. Rept. 87–2258, pp. 3–6.)

We are no longer just concerned with flood prevention—but with the multiple aspects of reservoir development—including water supply hydropower development, recreation, and other multiple uses made possible by large storage dams.

Water is a precious commodity. It is becoming more apparent each year—that we cannot afford to waste, pollute, or in any way destroy this natural resource.

Therefore, it is of paramount importance that in our plans for controlling destructive flood waters, we fully utilize all the waters stored in a manner that will provide releases for conservation purposes—such as power development, industrial and domestic water supply, recreation, and pollution abatement.

The Congress has asked the Corps of Engineers to look into comprehensive river basin planning, as the best means of fully developing our water resources.

(Opening statement at the hearings of the Senate Committee on Public Works, on Public Works Authorizations, 1965, pt. I, pp. 1–2.)

[p. 50]

In this work we are dedicated to the principle of providing the best use, or combination of uses, of these resources in the

service of the economic and social welfare of the Nation.

* * * * * * *

The disciplines and techniques of economics, political and social science, and public administration, as well as engineering, bear importantly in the solution of the complex resource development problems of our present-day society. In our role as public planners we are striving to provide the insight and leadership necessary to bring all of the pertinent disciplines and techniques into focus on these problems.

The test of any planning lies in the soundness of the action programs it defines. In down-to-earth terms this means that in the field of water-oriented planning we must devise effective ways of meeting needs—both immediate and long term—for domestic, municipal, industrial, and agricultural water supply; water quality control; navigation; hydroelectric power; flood control; land and beach stabilization; drainage and salinity control; hurricane and tidal flood damage control; outdoor recreational activity, including that associated with preservation and enjoyment of open space, green space and wild areas of unique natural beauty or special interest; and fish and wildlife conservation and enhancement. These factors all are considered in our project proposals. * * *

* * * As we approach the borderline between water abundance and water deficiency in many parts of the Nation, and strive to catch up in those areas where we already have crossed this border, it becomes clear that the pace of our planning and development activities must be increased. In addition to the pace imposed by growing demands, there is the added pressure of complexity. With few exceptions the day of single-purpose project planning is a thing of the past. Multiple-purpose planning now is the rule of the day.

(Testimony of Maj. Gen. Jackson Graham, hearings of the Senate Committee on Public Works, on Public Works Authorizations, 1965, pp. 15–16.)

* * * In water development it is not enough to consider measurable market values. We must also look beyond them. Water is related to public health, to outdoor recreation, and to the beauty of the landscape. * * *

If the assessment of values to be taken into account in project design is difficult, so are the technical engineering aspects. A variety of engineering and natural science specialists are required to design and operate a modern water facility. * * *

In my opinion the policies and administrative arrangements which evolved out of the earlier period of our history have not yet caught up with the kind of water management task now confronting us. * * *

[p. 51]

I am not suggesting that a Federal agency or combination of Federal agencies should be clothed with this kind of authority nor am I suggesting that all water resources management responsibilities be turned over to State or regional organizations. But I am indicating that some combination of policies and administrative arrangements that can institute these measures in a coordinated fashion is essential if water resources management is to provide American society with the full potential benefits inherent in the resources with which we have been endowed.

(Testimony of Irving Fox, Resources for the Future, hearings of the Senate Committee on Public Works on Public Works Authorizations, 1965, pp. 30–31.)

HIGHWAY BEAUTIFICATION

Many millions of us have been disheartened as we have traveled about the country and have seen hillsides stripped of their foliage, roadsides littered with trash, streams polluted. Some citizens, no doubt have felt that "uglification"—this desecration of the land and water—was a necessary price we must pay for industrial progress, and a necessary byproduct of the tremendous growth in our population. Others, fortunately, have not given up so easily and, in fact, have recognized that our growth in population and our economic development are factors which make it absolutely essential that we take positive action to preserve our natural resources. We have come to realize that we do not have unlimited land and water. Of necessity, many of us are going to be crowded in urban places. We must work together to make these places as pleasant and attractive as possible.

* * * * * * *

Our concern is with damage inflicted unnecessarily, which could be avoided, by consideration of all aspects of the problem, not merely those of the highway engineers.

(Testimony of Louis Prentiss, American Roadbuilders Association, hearing of the Senate Committee on Public Works, on Highway Beautification and Scenic Road Program, 1965, pp. 165–173.)

It might seem to the casual observer that little harm would

result in constructing a superhighway along a stream's course or in straightening a curving section of roadway by crossing and culverting, or channelizing and relocating a stream, or dredging a streambed to secure gravel for aggregate or to straighten and speed up the flow of runoff waters. The effect that most folk overlook is the great damage that accrues from violent disruption of the aquatic habitat.

* * * * * * *

I think engineers, biologists, everyone working with resources of one kind or another, seek public approval, and want to do the best job they can. They often have to persuade some people to look at other values. This is essentially what we are trying to do here, to provide a basic force on the highway engineers and builders to consider these matters seriously so we will have a harmonious balance.

[p. 52]

(Testimony of Richard Stroud, Sport Fishing Institute, hearings of the Senate Committee on Public Works on the Highway Beautification and Scenic Road Program, 1965, pp. 438–455.)

Soil erosion control

The Committee on Public Works, through the activities of its Subcommittee on Air and Water Pollution, has become increasingly concerned with siltation as a form of water pollution. Suburban home builders and highway builders are among the worst sources of this form of pollution, and yet government, whether Federal, State, or local, can hardly impose control measures on the private construction industry when it ignores prudent soil erosion control measures within its own area of responsibility. The committee therefore urges the Secretary not only to implement the provisions of the committee amendment, but also to take steps to minimize the time in which unsurfaced highway construction projects are subject to the erosion of wind and water.

(Federal-aid Highway Act of 1966, S. Rept. 89–1410, p. 38.)

Preservation of parklands

[It is] the national policy of the Federal-aid highway programs to preserve Federal, State, and local parklands and historic sites and the beauty and value of such sites. The Secretary is directed not to approve any Federal-aid highway project which requires the use of such lands unless (1) there is no feasible alternative to such use, and (2) the project plans include all possible pro-

visions to minimize harm to affected parkland and historic sites. The committee recommends that this policy be extended to include wildlife refuge areas as well.

(Ibid.)

The committee is firmly committed to the protection of vital parklands, parks, historic sites, and the like. We would emphasize that everything possible should be done to insure their being kept free of damage or destruction, by reason of highway construction. The committee would, however, put equal emphasis on the statutory language which provides that in the event no feasible and prudent alternative exists, that efforts be made to minimize damage. To that end, the amendment contained in section 114 of S. 3418, as reported, which would expand the definition of "construction costs," should be helpful.

The committee would further emphasize that while the areas sought to be protected by section (4) (f) of the Department of Transportation and section 138 of title 23 are important, there are other high priority items which must also be weighed in the balance. The committee is extremely concerned that the highway program be carried out in such a manner as to reduce in all instances the harsh impact on people which results from the dislocation and displacement by reason of highway construction. Therefore, the use of park lands properly protected and with damage minimized by the most sophisticated construction techniques is to be preferred to the movement of large numbers of people.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, pp. 18–19.)

[p. 53]

Urban Impact of Highways

During 1967 the committee reviewed Federal policy relating to urban highway planning, location, and design.

* * * Most people realize how important highways are to the continued social and economic development of our Nation. Highways have proven to be one of the great contributors to our system of communication, as well as transportion. When people are able to move freely, safely, and conveniently from place to place, the resulting exchange of information, goods, and services works to the benefit of the entire national community.

* * * * * * *

We hope through these hearings to come to an understanding of

what is being done and what can be done in urban highway construction to make highways a force for improved environment rather than as a factor which accentuates the already existing elements of decay, disruption, and displacement.

(Opening statement at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, pp. 1–5.)

First, we must apply to all capital improvement programs a full accounting of their social and environmental costs and build into all of these programs the means of meeting these costs;

And second, we must design all capital improvements to serve more than a single purpose so that full social and environmental benefit is extracted from such public investments.

The application of these two principles to the highway program, I believe, is clear. The cost accounting applied to urban highways until now has been deficient in that the ledger shows the costs of the program only in terms of acquisition, design, and construction. It does not show such real and tangible costs as the additional street and storage capacity required at points of egress; the taking of land from the tax rolls; the dislocation of the people in the highway's path; the reduction in value of adjacent property, the division and disruption of neighborhoods stemming from insensitive location; and the visual blight resulting from insensitive design.

* * * * * * *

I believe, and I will return to the point, that the highway program should include all the costs of building an urban highway, including those that I have itemized, and pay a fair share of these costs. To put it another way, I believe that the highway program, and the highway user, should meet the

[p. 54]

consequences of the powerful and potentially disruptive act of highway building in the city.

(Testimony of William Slayton, Urban America, at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, pp. 5–21.)

We had to take available published data, much of it very primitive indeed, but I think any examination clearly must include not only factors of physiographic and slopes and so on, bridge crossings points, but really must include social factors

and resource values too, and the development I think of a humane and civilized route selection method will concentrate I think not on engineering considerations but matters of man, institution, and resource values.

(Testimony of Ian McHarg, University of Pennsylvania, at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, p. 61.)

In the view of the committee, the emphasis of the Federal Highway Administration on the development of multiple land and air rights use, as an integral part of urban highway planning design, is well placed. We encourage the Department of Transportation, the Federal Highway Administration, and individual State highway departments to give continued strong support to this so-called joint development concept.

The significance of the concept's potential value is impressive in terms of savings to the public, of more productive land use in densely populated or highly concentrated urban areas, and of prevention of haphazard development along the highway right-of-way.

The public saves from joint development because, on its behalf, the highway department eliminates costly severance damages associated with acquiring a highway right-of-way through partial takings of land. Instead, the parcels are acquired in their entirety for fair price, and the unusued portions either developed or sold for development.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, p. 8.)

Urban highway planning

There is almost universal agreement on the need to approach the complexities of urban highway planning and development with all the professional and scientific expertise available. For too long, highways were designed, located, and constructed as single purpose projects. They were built to serve the needs of traffic and, in many cases, without regard to their disruptive effects on urban environment. Use of joint urban development as well as other techniques has done much to correct the situation. The committee believes that improvement in the overall coordination of highway projects is taking place.

* * * * * * *

It should produce the basic mechanics needed, to provide a better evaluation of urban transportation needs in terms of social, esthetic, and economic values. It must be

pointed out, however, that the approach must be classified as experimental. The committee is also aware that an approach such as this, will tend to prolong the completion of the Interstate System while these extensive studies take place.

There is no doubt that the knowledge gained in these efforts, will provide a foundation for new methods and techniques to assist in solving our complex urban transportation problems.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, pp. 11–12.)

ECONOMIC DEVELOPMENT

* * * over the years, the steeply sloped Appalachian farms have remained relatively unproductive and have undergone severe erosion. The resulting denuded slopes have marred the scenic beauty of the land, contributed to widespread siltation of its streams, and have thus impeded the development of the great potential for recreation and tourism.

Most of the small crop farming now practiced in Appalachia is on a marginal basis and too frequently provides only a bare subsistence living for the small farmer. It is, however, unrealistic to expect every small Appalachian farmer to give up his farm immediately—an act which would largely result in simply transforming rural poverty into urban poverty. Also, many of the small farmers of the region, especially the elderly ones, are deeply rooted in the land and prefer to live out their years on the farm, rather than become public welfare clients in the towns and cities. Thus, a coherent and equitable Appalachian development program must provide for restoration of the land under its present inhabitants and enable them to realize what benefits the land can furnish.

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 11.)

Water resources

An abundant annual rainfall in Appalachia gives the region a water resource potential that can be found in few other areas of the country. Unfortunately, this potential has never been fully realized, and all too often, water acts as a curse rather than a blessing in Appalachia.

With proper control and management, Appalachia's water resources can become the region's most precious natural asset, providing almost unlimited opportunities for recreational activities and incentives for industrial development. (*18*)

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 15.)

Mine area restoration

Much of the Appalachian landscape has been ravaged by the mining of coal. Former practices of both strip mining and deep mining operations have eroded the hillsides, polluted the streams, and endangered the lives of thousands of people. Though present enlightened management practices have made great progress over former years, the abuses of past

[p. 56]

coal mining practices serve as a major deterrent to industrial and recreational development in Appalachia.

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 16.)

TITLE III—PROPERTY ACQUISITION

GENERAL STATEMENT

The Senate has been concerned with the problems of space almost from the beginning. When all Senators could no longer be accommodated in the Senate wing of the Capitol, the Senate in 1891 acquired the old Maltby Building which once stood at the junction of New Jersey Avenue and B Street. This building was known as the Senate Annex.

In 1909 three wings of the first Senate Office Building to be constructed were completed and occupied, and the fourth wing was completed in 1933. This building is now known as the Old Senate Office Building.

By the middle of the 1940's it became apparent that additional office space for the Senate must be provided, and in 1947 the 80th Congress passed Public Law 169, which authorized the Architect of the Capitol, under the direction of the Senate Office Building Commission, to prepare preliminary plans and estimates for an additional Senate Office Building. This building, now known as the New Senate Office Building, was completed and occupied in 1958.

When the New Senate Office Building was being occupied for the first time, the Committee on Rules and Administration determined that each standing committee of the Senate should be entitled to a minimum of one hearing room and five adjacent offices. At the present time there is not a single unassigned or unoccupied room on the Senate side of the Capitol Building or in either of the two Senate Office Buildings. Provision of space to accommodate Senators and Senate activities has long since passed the critical stage.

In order to determine how prevalent the shortage of space was, the

Subcommittee on Public Buildings and Grounds of the Committee on Public Works sent letters to all Members of the Senate and to the chairmen of Senate committees and subcommittees, asking whether they required additional office space. As the result of these inquires, 72 Senators and 24 committees and subcommittees indicated that they needed additional office space. It is evident that this additional space can be provided on a permanent basis only through the construction of an extension to the New Senate Office Building.

Such an extension was envisioned when the New Senate Office Building was designed. In view of the present heavy financial commitments of the U.S. Government, this is not the appropriate time to initiate construction of this badly needed addition. However, in order to have the necessary site available at such time as the addition to the New Senate Office Building can be constructed and to reduce to the very minimum the cost of the site, the remaining lots in square 725 which would be needed as a part of the site should be acquired immediately.

It is estimated that the cost of these six remaining lots will not exceed $1,250,000.

[p. 57]

THE NEED

The New Senate Office Building is located in square 725, and if this building is eventually extended to the east in this square, which is the only way it can be done, it will be necessary for the United States to own all of the property contained in the square, with the exception of lot 885, which is known as the Belmont House. Public Law 85-591, approved August 6, 1958, authorized the acquisition of all remaining privately owned property in square 725, except lots 863, 864, 885, 892, 893, 894, and 905. Since all of these lots, except lot 885, would be required for the construction of a building addition and, in view of the rapidly rising land costs in this area, these lots should be purchased as expeditiously as possible.

HEARING

On August 3, 1967, the Subcommittee on Public Buildings and Grounds conducted a hearing to find out how critical the Senate office space situation was, and to seek means of providing additional space to alleviate the unsatisfactory working conditions with which many Members of the Senate are faced. Testimony was received from 12 Senators in person, and 14 additional Senators submitted statements for the record. It was the general consensus of the testimony offered that the only permament solution to the office space problem was through the construction of an addition to the New Senate Office Building.

[p. 58]

OIL SPILLS—JAN. 1–JULY 11, 1969

Date	Location	Source	Quantity and material	Waters affected	Comments
Jan. 2	Seattle, Wash.	Washington Natural Gas Co. storage tank.	90,000 gallons diesel	Lake Washington, Puget Sound	Booms, straw, and chemicals used, resource damage minor.
Jan. 7	Albany, N.Y.	Sears Oil Co., storage tank	100,000 gallons ballast	Hudson River, N.Y.	Booms and straw used by company.
Jan. 14	Lima, Ohio	Buckeye Pipeline Co., pipeline break	700,000 gallons crude oil	Ottawa River, Ohio	People evacuated from affected section of city, STP damaged.
Jan. 16	Waterford, Conn.	Seaboard Transport Co., barge grounded and punctured.	Unknown quantity No. 6 fuel or bunker "C."	Long Island Sound	Shoreface smeared from Rocky Neck, Conn. to Point Judith, R.I. Waterfowl damaged.
Jan. 24	Cape Gireadeau, Mo.		Unknown quantity of gasoline.	Mississippi River	Detected by water treatment plant operators.
Jan. 28	Santa Barbara, Calif.	Union Oil Co., platform A	Copious quantities of crude oil.	Santa Barbara Channel	Seepage from ocean floor continues.
Jan. 30	New Orleans, La.	Union Barge Co., sunken barge	2,500 barrels No. 6 fuel	Lower Mississippi River	High river flow dissipated oil.
Do	Cincinnati, Ohio	Suspected bilge pumpings	Unknown quantity, slick ½ by 6 miles.	Ohio River	Dissipated naturally.
Feb. 7	Bridgeport, Conn.	Leaking barge	200 gallons of oil	Bridgeport Harbor	Cleanup by company complete by Feb. 13, 1969.
Feb. 8	Rouge River, Mich.	Discharge pipe from shore installation.	150 gallons cooking oil, grade No. 1.	Rouge River, Mich.	Oil stayed on top of ice precluding cleanup.
Feb. 9	Buzzard's Bay, Mass.	Tanker SS "Algol"	Small quantity No. 6 fuel	Buzzard's Bay, Mass.	Vessel was moved to Staten Island on Mar. 17 and offloaded.
Feb. 13	Grand Isle, La.	"Magnolia" marine barge	30 barrels crude oil	Bayou Rigaud, La.	Booms, vacuum trucks, and straw used to collect most of the spilled material.
Feb. 14	Portland, Maine	Vessel pumped bilges	Oily, bilge water, 3 barrels	Portland Harbor, Maine	Vessel libeled by U S. attorney.
Feb. 19	Providence, R.I.	Overflow from storage tank	1,000 gallons No. 5 fuel	Providence River, R.I.	Sawdust used to absorb spilled oil.
Feb. 20	Memphis, Tenn.	Barges in collision	2,500 barrels No. 2 fuel	Mississippi River	Spilled material dissipated by high river flow.
Feb. 23	Oswego, N.Y.	Niagara-Mohawk Power Co. pipeline	3,000 gallons No. 2 fuel	Oswego Harbor, N.Y.	Company applied dispersants.
Feb 24	Piney Point, Md.	Spilled by tanker in off-loading	Small quantity of oil	Potomac River	Steuart Petroleum Co. applied dispersant.
Do	Port Neches, Tex.	Refinery pipeline	50 barrels gasoline	Port Neches Harbor, Tex.	Booms and vacuum truck used by company (Texaco).
Feb. 28	Port Arthur, Tex.	Collision of barge and motor vessel	100 barrels gasoline	Sabine Lake, Tex.	Spilled material contained and removed from water.
Mar. 3	Grey Bull, Wyo.	Marathon pipeline broke	2,000 barrels crude oil	Bighorn River, Wyo.	Straw boom used to stop and absorb part of spill.
Do	Wolf Creek, Mont.	Train derailment	4 tank cars, oil	Little Prickly Pear Creek	Earthen dam thrown across creek contained oil until it could be pumped out.

Mar. 4	Cook Inlet, Alaska	Tanker 22 "Yukon" grounded, cargo tanker holed.	1,000 barrels crude oil	Cook Inlet	Resulting slick dissipated.
Mar. 6	Boston, Mass.	Broken hose on motor vessel	7 barrels oil	Mystic River, Boston, Mass.	Oil contained by booms, and removed by water.
Mar. 12	Grand Isle, La.	Hose blown from transfer pump	12 barrels oil	Gulf of Mexico	Offshhore winds of 20 knots blew the oil out to sea and dissipated it.
Mar. 12	Offshore rig, La.	Separator carryover line leaked	5 barrels	do	Wind and wave action dissipated oil.
Mar. 14	Napa, Calif.	Vandalized storage tanks	20,000 gallons gasoline and 500 gallons weed killer.	Napa River, Calif.	Materials trapped in a ditch leading to the river, none escaped.
Mar. 15	Perth Amboy, N.J.	Ship fire and explosion at dock	Small quantities of gasoline and oil.	Arthur Kill, N.J.	Chemicals and foam used for fire control.
Mar. 17	Mobil Co. rig on ship shoal, Louisiana.	Offshore oil well blowout	400 square mile oil slick	Gulf of Mexico	Favorable weather dissipated oil slick.
Mar. 20	Gloucester, Mass.	Tank truck overflowed	1,000 gallon fuel oil	Annesquam River, Mass.	Small quantity escaped to the River—no cleanup needed.
Mar. 21	Chicago, Ill.	Shoreside storage tank	40,000-50,000 pounds soybean oil.	Chicago River	Private contractor used boom and skimmer to remove material, MSD took legal action.

[p. 59]

Mar. 28	Kettle Point, R.I.	Tanker "T. V. Agia Trias Trinity"	50 barrels, No. 6 oil	Providence River	Boom to vacuum pump.
Apr. 2	Boston, Mass.	Tanker "Alkins"	½ barrel No. 2 fuel	Chelesa Creek, Mass.	Spilled material boomed and removed by private contractor.
Apr. 3	Stamford, Conn.	Leakage from boiler, American Cyanamide.	1,500 gallons, No. 6 fuel	Long Island Sound	Boom placed but heavy rains washed oil into salt marsh.
Apr. 4	Waterford, Conn.	Suspected transient vessel pumped bilges.	Unknown quantity of heavy oil mixed with brown liquid.	Niantic Bay, Conn.	Containment of widely separated slicks. Material dispersed naturally.
Apr. 7	New Orleans, La.	Collision between barges and motor vessel.	Quantity not estimated	Mississippi River	Missing crewmen and fire that ensued overshadowed pollution.
Do	Washington, D.C.	Gasoline truck overturned on highway bridge	4,000 plus gallons of gasoline.	Anacostia River	District of Columbia Fire Department flushed material into river; gasoline evaporated.
Do	Chicago, Ill.	Gasoline barge	600 barrels gasoline	Calumet River, Ill.	Boomed and dissipated.
Do	Boston, Mass.	Tanker "Texaco Kansas," sloppy workmen.	25 barrels No. 6	Boston Harbor	Boomed and cleaned up by private contractor.
Apr. 9	Portland, Maine	Leaky valve on slop tank	3 barrels crude	Portland Harbor	Vessel libeled, material cleaned up by contractor.
Apr. 10	Portsmouth, N.H.	Tanker "Monsoon"	100 barrels bunker "C"	Piscataqua River	Private contractor cleaned up.

OIL SPILLS—JAN 1–JULY 11, 1969—Continued

Date	Location	Source	Quantity and material	Waters affected	Comments
Apr. 10	Seabright, N.J.	Unknown	60 percent of beach in 500 yard stretch smeared.	None	Samples collected to try to identify source.
Apr. 14	Baltimore, Md.	CG sludge barge sank	500 gal. of oil slop	Marley Creek	CG placed boom and applied dispersant.
Apr. 12	Norfolk, Va.	Suspect U.S.S. "Independence"	Large broken slick of 1 to 1.5 inch depth, bunker "C."	Thimble Shoal, Chesapeake Bay.	Ships master contacted Apr. 14—no action reported as yet.
Apr. 22	Detroit River, Mich.	Chrysler Corp., Cycleweld plan	96,000 gallons of industrial cutting oil.	Detroit River, Lake Erie	Wind and wave action dispersed material, no damage reported.
Apr. 27	Kansas City, Mo.	Barge, New Orleans Barge Co.	Triple super phosphate	Missouri River	Barge salvaged without incidence of pollution.
Apr. 29	St. Croix, Virgin Islands	Tanker, "Mobil Apex"	Naptha, gasoline, and bunker "C."	Ocean waters off St. Croix	Pollution secondary, ship was afire, therefore, safety considerations were most important.
Apr. 30	Arthur Kill, N.J.	Tanker Esso "Boston"	50 bbl. No. 6 fuel	Arthur Kill, N.J.	Booms and vacuum trucks used to clean up by company.
May 2	Indiana Harbor, Ind.	Broken line on oil barge, Youngstown Sheet & Tube Co.	20,000 gallons No. 6 fuel	Indiana Harbor canal	Contractor used booms and vacuum trucks to clean up. Retrieved 15,000 gallons.
May 6	Saginaw, Mich.	Unknown	50 gallons of benzene	Saginaw River, Mich.	Booms used to contain material until it evaporated.
May 7	Gowanus, N.Y.	Overflowing storage tank	240 barrels No. 4 fuel oil	Gowanus Canal, upper New York Bay.	Spill discovered by harbor patrol, not reported by principals, C. E. acting under Refuse Act.
Do	Falkner Island, N.Y.	Barge "Pittston" No. 40, holed cargo tank.	200 barrels No. 6 fuel	Central Long Island Sound	Spilled oil dissipated by wind and wave action.
May 8	Harrisville, Mich.	Unknown	Oily globs appearing to be bunker "C."	Lake Huron, 10 miles of beaches.	Little impact on waters, local residents cleaned beaches.
May 11	Portsmouth, N.H.	Barge "Robert L. Poling"	Unknown quantity No. 2 fuel.	Piscataqua River, N.H.	Most of spillage dispersed by currents. Fish reported to have been killed.
May 13	Petty Island, N.J.	Cities Service, terminal dock collapse	1 barrel oil, large quantity gasoline.	New York Harbor	Gasoline dissipated naturally; oil contained and cleaned up.
Do	New Brunswick, N.J.	Barge "Seaboard No. 88"	70 barrels No. 6 fuel	Raritan River, N.J.	Booms and vacuum trucks used to contain and clean up oil.
Do	La Grange, Mo.	2 Meljoy Transportation Co., barges	Gasoline	Missouri River	Fire on barges. Pollution considered secondary in importance.
May 19	Oleum, Calif.	Tanker, "SS Eagle Courier"	Alaska crude, 50 barrels	San Francisco Bay, Calif.	Straw used by company to collect spillage, dispersant used for final polishing.

May 20	Bridgeport, Conn.	Unknown	Unknown quantity of oil, slick 100 by 600 feet.	Bridgeport Harbor	Slick dissipated by tidal action.

[p. 60]

May 23	Lake Arthur, La.	Barge, Scurlock Oil Co.	1,800 barrels No. 2 fuel oil.	Lake Arthur and Mermentau River, La.	Boom and vacuum trucks used to contain and clean up. Louisiana Game and Fish Commission arrested barge.
June 12	Massena, N.Y.	Fractured heat exchange, Alcoa plant	Unknown quantity No. 6 fuel, 2½ miles of shoreline coated.	Grasse River, N.Y.	Company used straw to collect oil on water.
June 5	Anchorage, Alaska	Union oil asphalt facility	124 barrels lube oil	Knik Arm, Cook Inlet, Alaska.	Company used straw for cleanup.
Do	Winona, Wis.	Barge UN 554	2,000 gallons gasoline	Mississippi River	Swift currents dissipated spillage.
June 6	Marysville, Mich.	Sun Oil Co., Sarnia, Canada	Oil	St. Clair River	Oil did not affect U S. waters.
June 7	Braintree, Mass.	Citgo terminal	100,000 gallons No. 2 fuel	Weymouth Fore River	Private contractor used booms, vacuum trucks and chemicals for cleanup Beaches smeared.
June 12	Grover City, Calif.	Unknown	Crude oil, undetermined quantity.	9 miles of Pismo Beach smeared.	Local forces cleaned up.
June 13	Cape Sebastian, Oreg.	do	Oil—slick 300 yards by 10 miles.	Pacific Ocean	Sighted by BFC personnel, no action taken other than surveillance. Dissipated.
June 16	Near Williamsburg, Va.	Lost in transfer from barge to tanker	10 barrels fuel oil	York River, Va.	Company cleaned up spillage
Do	Alma, Wis.	Barge NBC 902	500 barrels No. 2 fuel	Mississippi River	Currents dissipated spill. Company notified of Federal concern by Great Lakes Region. Corps cleaned up residual and billed company.
June 17	Honolulu, Hawaii	Unknown	Oil	Waikiki Beach, Ala Wai Yacht Harbor.	Wind blew oil back to sea, vessels that were fouled were cleaned by owners.
June 19	Chicago, Ill.	MV Big D	100 gallons oil	Chicago Harbor, Lake Michigan.	Straw and skimmer used for cleanup. Company disclaimed responsibility. Local government arranged cleanup.
Do	do	Unknown	Emulsified oil slick 300 by 1 mile.	North Branch, Chicago River.	C G. boomed to contain oil. MSD cleaned up.
June 20	Lake Ontario	Ship passing and emptying bilge tanks	Unknown; oil	St. Lawrence River	No evidence of oil slick after extensive search.
Do	Lake Michigan	Unknown	do	Lake Michigan, 43–15N, 87–24W.	Rate of dissipation indicated no serious pollution.
Do	Alma, Wis.	Houglunt Towing Co., Paducah, Ky.	64,000 gallons No. 2 fuel oil.	Mile 754, Mississippi River.	Legal action against pilot of M/V Jim Hougland reported taken by State of Wisconsin for violation of Wisconsin Statute 29.29/3.

OIL SPILLS—JAN. 1–JULY 11, 1959—Continued

Date	Location	Source	Quantity and material	Waters affected	Comments
June 24	Salt River, Ky	Mid-Valley Pipe Line Co	Unknown; oil	Extent of spill is to dam 43 on Ohio River 4 *miles below mouth of* Salt River.	Civil health officials on scene conducting investigation.
Do	Cleveland, Ohio	Oil always present due to backwater eddy caused by main sewer plant discharge.	Unknown, tramp oil	Cuyahoga River	Submit letter report I AW CG–299.
June 25	Neah Bay, Wash.	Tanker Elpis	Trace; oil	Neah Bay	No damaged ascertained. Investigation continued on possible enforcement action.
Do	Belmont, Ky	*Mid-Valley Pipeline Co*	*Unknown*; oil	Salt and Ohio River	Pipeline leakage stopped. Oil slick is presently breaking up on the Salt River.
Do	Anchorage, Alaska	Tanker Elpis	25 mile slick, bunker C	Anchorage Harbor	Investigated and action taken by State of Alaska and Coast Guard.
June 26	Mile 645–646.5, Tennessee River.	Volunteer Asphalt Co., Knoxville, Tenn.	Asphalt with oil mixed in	Tennessee River	Company used straw to collect oil.
June 30	Farmers Union Grain Terminal, Howards Bay, Wis.	Storm drain at head of slip	Unknown, oil	Howards Bay	Boom placed across slip in front of drain to contain oil.
July 1	Kansas City, Kans.	Oil drained from dump during rain	Unknown, oil	Kansas River	State will take action to insure that situation will not recur.

[p. 61]

July 3	Cape Girardeau	Tow pusher, Ashland Oil Co	Slight amount, Heptane	Mississippi River, Mile 51	Heptane dissipated by river conditions.
Do	Ft. Myers, Fla	Ferryboat aground	1,600 gallons oil	Caloosahatchee River	CG reported no navigational hazard and minimal pollutional effects.
July 7	Misquamicut State Beach, R.I.	Unknown	Unknown, asphalt	Misquamicut State Beach	Minor contamination of beach areas and much was cleaned up or removed by change of tide.
Do	Fire Island, N.Y.	Coming ashore in vicinity of Robert Moses State Park.	Unknown, oil	Off south coast of Fire Island.	No containment problem exist since all oil on beach.
Do	Port Everglades, Fla.	Vessel sinking, Symco Trading Co., Nassau, Bahamas.	2,000–3,000 gallons oil	6 miles southeast of Port Everglades.	No leakage, oil pumped overside.

Do	Houston Ship Channel	M/V "Esso New York," Humble Refinery.	Approximately 1,000 gallons kerosene.	Houston Ship Channel	As the spill was on the inboard side of vessel and there was no outgoing tide at the time, no hazard to navigation in channel.
July 9	Immigration Canyon, Utah.	Ruptured pipeline, Earthen Dythe & Oil Co.	1st 500 barrels oil, 2d, 1,400–1,600 barrels.	Jordon River and Weber River Basin.	None of the oil reached any water course.
July 10	Delaware Memorial Bridge.	Tanker collided with new span of Delaware Bridge.	298,000 barrels, NR bunker oil	Delaware River	No pollution observed. Little or no debris in river.
July 11	Mile 830 Ohio River	4-inch pipeline break—Sohio Co.	50 barrels, crude oil	Mile 830 Ohio River	Company is cleaning up oil residual.
Do	Bayonne, N.J.	Spilled from a fuel oil exchange heater.	10 barrels, No. 6 oil	New York Harbor	Texaco rigged boom and vacuumed up oil from surface.
Do	Near Demopolis, Ala.	Collision of tug "Carl D" and tug "Wisconsin".	Unknown, crude oil	Black Warrior River at mile 225.	

[p. 62]

SECTION-BY-SECTION ANALYSIS

TITLE I—WATER QUALITY IMPROVEMENT

SECTION 101

This section would cite this title as the "Water Quality Improvement Act of 1969".

SECTION 102

Section 102 of the bill would repeal sections 17 and 18 of the Act; redesignate sections 11 through 16 as sections 16 through 21 and section 19 as section 22; and add five new sections. The repealed sections 17 and 18 called for studies and reports to be completed in 1967 and 1968, respectively. There is no further work required under either section.

Section 11—Control of pollution from vessels

The new section 11 is concerned with the control of the discharge of sewage from vessels into the navigable waters of the United States. This provision reflects recommendations in the report entitled "Wastes from Watercraft" (S. Doc. 90–48) submitted to the Congress by the Department of the Interior on August 7, 1967.

Section 11 (a)—Definitions

Section 11 (a) would define the various terms used in the section.

Section 11 (b)—Standards

This section would direct the Secretary of the Interior within two years after the effective date of this section to promulgate standards of performance for marine sanitation devices to prevent the discharge of untreated or inadequately treated sewage from all new and existing vessels equipped with installed toilet facilities. These standards must be consistent with maritime safety and other marine laws and regulations. The section would also direct the Coast Guard to promulgate regulations which govern the design, construction, installation, and operation of marine sanitation devices installed on board vessels subject to this section. The regulations must be consistent with the standards.

This section would also exempt from such standards and regulations vessels equipped with a device installed pursuant to State requirements prior to the promulgation of such standards and regulations until the device is replaced or unless it does not remain in compliance with the applicable State law.

Section 11 (c)—Effective date

This section would provide that standards and regulations for new vessels become effective two years after promulgation. Standards and regulations for existing vessels would become effective five years after promulgation. Revisions thereof would be effective on date specified in such revisions.

[p. 63]

The Coast Guard may waive application of standards and regulations to various classes, types, and sizes of vessels for such periods as may be necessary and, upon application, waivers may be granted for individual vessels. It is expected that the Coast Guard would consult with the Secretary of the Interior before granting waivers of any standards.

Section 11 (d)—Application to Federal vessels

This section would require compliance with Federal standards and regulations by public vessels of the United States, except where compliance conflicts with national security, as determined by the Secretary of Defense.

Section 11 (e)—Consultation

This section would require that the Secretary and the Coast Guard consult with Federal and State agencies and other interested parties and comply with the provisions of section 553 of the United States Code (the Administrative Procedure Act) prior to promulgation of standards and regulations.

Section 11 (f)—Preemption

This section would preempt State or local laws or regulations relative to the design, manufacture, installation, or use of marine sanitation devices on new or existing vessels for which such devices are required under section 11 (c) after the Federal standards and regulations applicable to such vessels are effective. Such State laws and regulations could still continue in effect in the case of other vessels. Also, a State may prohibit all sewage discharges from all vessels into certain waters within its boundaries in order to implement applicable water quality standards. This section will aid in insuring uniform standards and regulations, while recognizing the paramount importance of not permitting even treated discharges in some waters in furtherance of the water quality standards program.

Section 11 (g)—Certification

This section would prohibit the sale or delivery into commerce of a device, the prototype of which is not certified; establish procedures for certification; and provide for the maintenance of records.

Section 11 (h)—Unlawful acts

This section would provide that, after the effective date of standards and regulations, it shall be unlawful:

To manufacture, or distribute for sale, vessels, subject to Federal standards and regulations without a certified device;

To, wrongfully, remove or render inoperative a certified marine sanitation device installed prior to sale or delivery to the ultimate purchaser;

To refuse Federal authorities access to records; and

To operate a vessel subject to the standards and regulations if it is not equipped with an operable device.

Section 11 (i)—Injunctive relief

This section would give jurisdiction to the courts to restrain those, who under section 11 (h), unlawfully manufacture or distribute for

[p. 64]

sale vessels without a device, remove or render inoperative a device, or refuse access to records.

Section 11 (j)—Penalties

This section would establish civil penalties in case of violations of section 11 (h) to be assessed after notice and hearing by the Coast Guard. Civil penalties not paid after administrative proceedings may be collected by the United States in the Federal district courts in a de novo proceeding.

Section 11 (k)—Enforcement

This section would place the responsibility for enforcement in the Coast Guard with assistance by the Secretary of the Interior, other Federal agencies, or the States.

Section 11 (l)—Inspection

This section would authorize the Coast Guard to inspect vessels in U.S. waters and issue and execute warrants.

Section 11 (m)—Jurisdiction

This section would grant jurisdiction to various courts in cases of actions arising under section 11.

Section 12—Control of oil discharge

The new section 12 is concerned with the control and cleanup of oil discharges into inland waters of the United States and waters of the U.S. territorial seas, and in the case of vessels, into the waters of the 9-mile zone contiguous to the territorial sea. Its purpose is to insure swift removal of discharged oil in order to prevent, minimize, or mitigate damage to property and our natural resources. It does not

apply to discharges from offshore facilities covered by leases and regulations under the Outer Continental Shelf Lands Act, but does not in any way affect claims to persons or agencies damaged by such discharges.

Section 12 (a)—Definitions

This section would define the various terms used in the section.

The definition of "oil" is very broad, and only specifically excludes dredged spoil. This definition is concerned with petroleum and petroleum products and therefore vegetable oil and similar products would not be included.

The definition of "discharge" is designed to cover by its broad terms all possible means of fouling the waters with oil.

The definition of a "vessel" is identical to that in section 3, Title 1, United States Code, and would include all vessels, both foreign and domestic.

The definition of the term "public vessel" would cover Federal- and State-owned and operated vessels and vessels owned and operated by a foreign country, except those not engaged in commerce.

The definition of "United States" includes Guam, American Samoa, the Virgin Islands, Puerto Rico, the Canal Zone, and the Trust Territory of the Pacific Islands, as well as all the States and the District of Columbia.

The definition of "owner and operator" would include individuals or organizations, such as a corporation, association, firm, or partnership, that own, operate, charter by demise, a vessel, or own or operate an onshore or offshore facility.

[p. 65]

The definition of a "contiguous zone" is the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone (TI AS 5639). The authority under which the United States may regulate, with regard to pollution by oil, the conduct of foreign vessels beyond the territorial sea and impose sanctions for violation of such regulations is contained in article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Article 24 1 (a) allows the coastal State "in a zone of the high seas contiguous to its territorial seas" to exercise the control necessary to "prevent infringement of its * * * sanitary regulations within its territory or territorial sea."

Article 24 1 (b) allows the State to "punish infringement of the above regulations committed within its territory or territorial sea." The Department of State, in testifying before the Senate Foreign Relations Committee, took the position that article 24 confirmed the

U.S. practice of exercising customs jurisdiction in a zone beyond the territorial sea and extended such jurisdiction to fiscal, immigration, and sanitary matters as well. (Hearing before the Committee on Foreign Relations, U.S. Senate, 86th Cong., second sess., Jan. 20, 1960, pp. 82, 93). Such customary practice included the right to arrest and impose criminal sanctions for violations of U.S. customs laws in the zone beyond the territorial sea.

The definition of "onshore and offshore facilities" distinguishes between drilling and production facilities and other facilities. Drilling and production facilities and related appurtenances, such as pipelines, platforms, barges used for drilling purposes, etc., are those that are used or capable of being used solely for the purpose of exploring for, drilling, or producing oil. To other facilities are those that are used or capable of being used to process, transport, or transfer oil, or to store oil commercially. Neither definition applies to individual homes where oil is stored, or small businesses other than marine facilities which are used or capable of being used to store 500 barrels of oil or less. Few existing or planned service stations have a storage capacity of more than 500 barrels. In either case, the facility could be located either permanently or temporarily on dry land or land under the navigable waters of the United States which includes inland waters and coastal waters out to the 3-mile territorial sea limit.

The definition of an "act of God" means an act occasioned exclusively by violence of nature without the interference of any human action.

Section 12 (b) (1)—Discharge prohibition

This section would prohibit all oil discharges into U.S. waterways and the waters of the contiguous zone from any source, except where permitted under a 1954 convention, and where permitted by regulations issued by the President. Such regulations would be issued pursuant to 5 U.S.C. 553 relative to rulemaking and must be consistent with maritime laws and regulations and water quality standards.

Section 12 (b) (2)—Discharge penalty

This section would authorize a civil penalty for knowingly violating the regulations promulgated under the previous section. If payment

[p. 66]

is not forthcoming administratively, such penalty may be collected in the Federal district court in a de novo proceeding.

Section 12 (c)—Notice requirement

This section would require any person in charge of a vessel or an

offshore or onshore facility at the time of a discharge of oil into the navigable waters of the United States or into the waters of the contiguous zone to notify immediately the United States.

This section would also provide a criminal penalty for any person in charge of such vessel or facility who knowingly fails to notify the United States. The term "person in charge" is deliberately designed to cover only supervisory personnel who have the responsibility for the particular vessel or facility and not to include other employees. The purpose of the notice provision is to prevent or mitigate damage and facilitate cleanup. Such notice and information contained therein may not be used in any criminal action under Federal or State laws.

Section 12 (d) (1)—Regulations

This section would direct the President to issue regulations to govern the removal of oil which is discharged, aid in the enforcement of this section, prevent oil pollution, and establish criteria for oil removal contingency plans. It is expected that the President will periodically review these regulations and make appropriate changes to reflect changing conditions and to take into account advances in the technology for the handling of oil and for removing oil discharged. The regulations will also cover procedures to review and approve, where appropriate, such plans of owners or operators as well as public agencies.

Section 12 (d) (2)—Penalties

This section would authorize a civil penalty for violating the above regulations. If payment is not forthcoming administratively, such penalty may be collected in the Federal district court in a de novo proceeding.

Section 12 (e)—General liability

The section would require that when oil is discharged in violation of section 12 (b) the oil must be removed immediately under the above regulations. The object of this provision is to make the discharger completely responsible for cleaning up the discharged oil and preventing or lessening potential damage.

It would provide, if the discharger fails, or is unable to act to remove the oil, authority for the President may take appropriate measures to remove the oil either directly or by contract. If the discharger acts improperly the President could also act to remove the oil.

Section 12 (f)—Vessel liability

This section would limit the liability of a vessel owner or operator for the cost of removal of discharged oil by the United States to up to $125 per gross ton of the vessel, or $14 million, whichever is less.

This limitation, however, would not apply if the discharge was the result of a negligence or a willful act on the part of the owner or
[p. 67]
operator or his agents, employees, etc. In such case, the owner or operator would be liable for all costs of removal borne by the United States. The owner or operator may not be held liable, however, for these costs if he can prove the discharge was caused solely by an act of God or war or negligence of the U.S. Government or any act of a third party.

The reference in this section and section 12 (i) to negligence of the U.S. Government is not intended, nor should it be construed as creating any new liability on the part of the Government. Further, where it is alleged that negligence of the U.S. Government arises through a negligent act or omission of a Federal employee, the owner or operator must show that the employee was acting within the scope of his office or employment, but still negligent, and the exceptions in 28 U.S.C. 2680 are intended to be applicable here in determining whether the U.S. Government was negligent or not.

Section 12 (f) (2)—Financial responsibility

This section would provide that any vessel over 300 gross tons which use any port or place in the United States or the navigable waters of the United States for any purpose must establish evidence of financial responsibility of $100 per gross ton to meet the maximum potential liability to the United States which the vessel could be subjected to for the discharge of oil under section 12 (f) (1). The financial responsibility should be established pursuant to regulations to be prescribed from time to time by the agency head to which the President has delegated this responsibility. Financial responsibility may include insurance policies, bonds, evidence of self-insurance, or evidences of such responsibility that the agency head deems appropriate. All bonds filed must be issued by a bonding company authorized to do business in the United States. Provisions of financial responsibility also apply to barges that are equivalent in size to vessels over 300 tons.

Section 12 (g)—Service of process

This section would require that a person in the United States be designated for service of process in matters arising under section 12.

Section 12 (h)—Treasury clearance of vessels

This section would direct that the Secretary of Treasury withhold clearance of a vessel, other than a public vessel, that is liable for any costs or penalties to the United States under section 12 or has failed to meet the requirements for financial responsibility.

Section 12 (i) (1)—Onshore and offshore facility responsibility

This section would limit the liability of an owner or operator of a nondrilling-production facility to the United States for the cost incurred in removing discharged oil to $125 per ton of oil which such facility is capable, while operating at maximum capacity, of either processing, transporting, transferring in any 24-hour period, or storing in its largest unit. The limitation, however, would not apply if the discharge was the result of negligence or a willful act of the owner or operator, his agent, or any employee thereof. Also, the owner or operator would not be liable for such costs if he is able to prove that the discharge was caused solely by an act of God or war, or solely by

[p. 68]

negligence of the U.S. Government or solely by an act of a third party. In determining the amount of the liability, the owner or operator would be required to establish conclusively the capacity of the facility.

Section 12 (i) (2)—Onshore and offshore drilling-production facility liability

This section would establish the liability of an owner or operator to the United States for oil discharges from an onshore or offshore drilling-production facility of not to exceed $8 million. This limitation, however, would not apply if the discharge was due to a negligent or willful act on the part of the owner or operator, his agent, or any employee thereof. The owner or operator would not be responsible for costs where he can prove that the discharge was caused solely by an act of God or war or solely by the act of a third party or solely by negligence of the U.S. Government.

Section 12 (j)—Recovery from the United States

In any instance where the owner or operator removes the discharged oil and he is subsequently able to prove in a suit against the United States in the Court of Claims that the discharge was caused solely by an act of a third party or an act of God or war or by negligence on the part of the U.S. Government, the owner or operator is entitled to recover such costs from the fund established under section 12 (k). If the discharge was caused solely by an act of a third party, the United States shall be subrogated to any rights that the owner or operator may have against such third party. This section does not apply to cases where liability is established under the Outer Continental Shelf Lands Act. The United States, of course, would have normal rights of appeal.

Section 12 (k)—Delegation and revolving fund

This section would authorize the President to delegate his functions

under section 12 to one or more appropriate Federal agencies. It would authorize a revolving fund. The maximum amount in the fund from appropriations would be $50 million.

Section 12 (l)—Rights Over

This section would establish that the provisions of section 12 are not intended to affect the rights of an owner or operator or the U.S. Government against third parties who may have caused or contributed to an oil discharge.

Section 12 (m)—Enforcement

This section would grant enforcement authority in carrying out provisions of section 12.

Section 12 (n)—Emergency Action

This section would provide authority similar to that in an 1899 statute administered by the Secretary of the Army (33 U.S.C. 415). It would authorize the United States in cases where the President determines that there is an imminent and substantial threat to the public health or welfare, because of an actual threat or discharge of oil into the navigable waters of the United States from a vessel, to take immediate possession of the vessel and such other action that may be appropriate. Any expenses incurred by the United States could be

[p. 69]

recovered subject to the same limitations found in sections 12 (f) and (g).

Similarly, the President under the same conditions may require that the U.S. attorney seek relief to abate any actual or threatened discharge of oil from any onshore or offshore facility.

Section 12 (o)—Jurisdiction

This section would provide jurisdiction in the Federal district courts and in various other district courts relative to Guam, Virgin Islands, American Samoa, Trust Territory of the Pacific Islands, and the Canal Zone.

Section 12 (p)—Other Laws Not Affected

This section would provide that the provisions of section 12 shall not be construed as affecting or modifying any other existing authorities under Federal Water Pollution Control Act, as amended, or any other Federal law or any State or local law not in conflict with the provisions of section 12.

Section 12 (q)—Disclaimer

This section would provide that section 12 will not affect or modify

the obligations of any owner or operator for damages to persons or property resulting from the discharge of oil or from the removal of such oil.

Section 13—Control of hazardous polluting substances

This new section 13 is concerned with the identification, control, and cleanup of hazardous substances, other than oil.

Section 13 (a) - (f) —Identification of hazardous substances

This section would direct the President to develop, promulgate, and revise regulations designating various hazardous substances, other than oil, which when discharged in any quantity into the navigable waters of the United States, or the waters of the contiguous zone, would present an imminent and substantial danger to the public health or welfare and establishing where appropriate, criteria for the removal of such substances. The development of these regulations must include consultation with various public and private agencies and organizations and individuals interested in such regulations. Where appropriate, public hearings could be held in developing the regulations. Consideration must also be given to the latest available scientific data, technical feasibility of the regulations, and experience gained under the Federal Water Pollution Control Act. Regulations would be published in the Federal Register as proposed regulations and interested persons would be given at least 30 days to comment thereon. At the end of that time the regulations may be finally promulgated unless an interested person has filed objections stating grounds therefor and requesting a public hearing on such objections. After the notice period, the objections must be published in the Federal Register by notice and a public hearing held as soon as possible thereafter. On completion of the hearing, the President must make findings of fact and he may promulgate such modification of regulations as appropriate or take other action as he deems appropriate. All findings must be made public.

Any person aggrieved by such regulation for which a hearing was held may within 60 days file a petition in the U.S. Court of Appeals

[p. 70]

for the District of Columbia requesting that the regulation be modified or set aside. The court must hear the appeal on the record made before the President and the substantial evidence rule shall apply to the findings of the President. The court may affirm, vacate, or remand the proceedings. The review afforded by this procedure in the Court of Appeals shall be exclusive as to the person seeking the petition and such person cannot raise the validity of the regulation in any subsequent procedure relating to the enforcement thereof. The filing

of a petition does not stay the regulations unless the court so orders after finding that there is substantial likelihood that the President's findings are erroneous and that irreparable injury will result if the stay is not granted.

Section 13 (g)—Notice

This section would require that notice be given immediately to the United States upon the discharge of any hazardous substance from an onshore or offshore facility or a vessel in order to permit immediate action to remove or otherwise mitigate damage from the discharged substance. Criminal penalties apply for anyone who knowingly fails to so notify. Such notice and information contained therein may not be used in any criminal action under Federal or State law.

Section 13 (h)—Removal

This section would direct that the United States remove any discharged substance unless appropriate action is taken immediately by the discharger to remove the substance.

Section 13 (i)—Penalties

This section would provide civil penalties for violation of regulation promulgated under section 13 (a). If payment is not forthcoming administratively such penalties may be collected in Federal court in a de novo proceeding.

Section 13 (j)—Disclaimer

This section would provide that section 13 will not affect or modify the obligations of an owner or operator for damages to anyone for damage to persons or property resulting from the discharge of a hazardous substance or from the removal of such substance.

Section 13 (k)—Enforcement

This section would provide enforcement authority in carrying out the provisions of section 13.

Section 13 (l)—Court jurisdiction

This section would provide jurisdiction in the Federal district courts in case of any actions arising under section 13.

Section 13 (m)—Definition

This section would define various terms used in section 13 and make applicable the definitions of section 12 (a) as to the terms, oil, discharge, vessels, public vessel, United States, person, contiguous zone, and act of God.

Section 13 (n)—Report

This section would require that the President submit a report to the Congress by November 1, 1970, on the need for, and desirability of, legislation imposing liability for the cost of removal of hazardous

substances. The report would be based on an accelerated study on

[p. 71]

the methods and measures for controlling substances, the most appropriate measures for enforcement, and the methods of imposing sanctions where removal is impossible or impractical.

Section 13 (o)—Delegation

This section would authorize the President to delegate his responsibility to other Federal agencies. In addition it would make available for the purpose of section 13 the fund established under section 12 of the Act.

Section 14—Area Acid and Other Mine Water Pollution Control Demonstrations

This new section 14 would authorize a demonstration program regarding acid or other mine water pollution control.

Section 14 (a)

This section would authorize the Secretary of the Interior to carry out an areawide program within all or part of a watershed to demonstrate methods for the elimination or control of acid or other mine water pollution resulting from active or abandoned mines. The work would be done under agreements with the interested States or interstate agencies acting jointly or severally depending on where the project is located. The projects must demonstrate the engineering and economic feasibility and practicality of using single or multiple-abatement techniques.

Section 14 (b)

This section would provide that the project area be all or part of a watershed. In selecting such an area, the Secretary must (1) require to the extent needed, a feasibility study which may be carried out by the Secretary or the States, (2) give a preference to those areas with the greatest public values and uses either present or future, and (3) be satisfied that the project area will not be affected to any serious degree from other polluting sources.

Section 14 (c)

This section would provide that the State share of a project shall be at least 25 percent of the total project costs. This payment may be in the form of land or interests therein actually acquired by the State or a subdivision thereof for the project after the enactment of this new section, facilities, and personal services, and money. The value of the land, facilities, and services will be determined by the Secretary. It is the purpose of this section to encourage the States to participate to the greatest extent possible so that there may be

developed meaningful projects which will produce the experience needed to develop an effective control program.

This section would require the State to establish adequate mechanisms and controls, including plans of enforcement, to prevent any activity that may cause future mine water pollution and destroy or severely damage the work carried out in the project area.

Section 14(d)

This section would authorize an appropriation of $15 million for this program. The funds would be available until expended. It would also limit the total Federal grant to any one State on any one year to 25 percent of the funds actually appropriated to carry out this program.

[p. 72]

Section 15—Pollution control in Great Lakes

This section would authorize the Secretary of the Interior to carry out a program to demonstrate new methods and techniques and develop preliminary plans to eliminate control of pollution within all or any part of the watersheds of the Great Lakes. In carrying out these projects, State political subdivisions, interstate agencies, or other public agencies, acting jointly or severally, must pay at least 25 percent of the actual project cost; $20 million are authorized to be appropriated for this project.

SECTION 103

This section would amend redesignated section 16 of the Federal Water Pollution Control Act, as amended, to read as follows:

Section 16(a)—Federal agency compliance

This section is similar to the present section 11 of the Federal Water Pollution Control Act as amended. The new section, however, would require that every Federal agency having jurisdiction over any real property or any facility or activity of any kind shall insure compliance with applicable water quality standards in the administration of the property, facility, or activity consistent with an approved plan for implementation. This section would also authorize appropriations to carry out this requirement.

Section 16(b)—Compliance by lessees and contracting party

This section would require that when a Federal agency (1) issues a lease to any person for the use of any Federal property or facility or (2) contracts for the operation of such property or facility or (3) contracts for the entire operation of any non-Federal facility, such agency must insure compliance with the applicable water control quality standards and purposes of this Act in administering such lease or

contract. When appropriate, a certification obtained under section 16(c) for a Federal license or permit shall be evidence of compliance with the water quality standards.

Section 16(c)—Compliance by licensee and permittee

This section applies to applicants for Federal licenses or permits to construct or operate any facility or to conduct any activity which may result in any discharge in the navigable waters of the United States. It does not apply to Federal agencies.

The section would require that the applicant for such Federal license or permit provide a certification from the State in which the discharge originates to the Federal licensing or permitting agency and notice thereof to the Secretary of the Interior, that there is reasonable assurance that the facility or activity will comply with applicable water quality standards. In appropriate cases, the certification would be obtained from an interstate water pollution control agency. Where water quality standards for interstate waters have not been approved or promulgated under section 10(c) of the Federal Water Pollution Control Act, as amended, the certification must be obtained from the Secretary of the Interior. The certifying agency has 1 year after receipt of application for certification to notify the applicant of such certification or of intent not to certify. After the Secretary of the Interior determines that the discharge may affect the applicable water quality standards of a State or States other than the certifying State, the Secretary must notify the other States within 60 days after receipt of the notice of an application for a license or permit. If such other

[p. 73]

States within 30 days after receipt of notification from the Secretary determine that the discharge will adversely affect its standards, they should notify the Secretary and the Secretary has an additional 30 days to review such determination. If upon such review he finds such adverse effect, the Secretary shall require that before the license or permit is issued that appropriate conditions be included to insure compliance with the standards.

No Federal license or permit can be granted without a certification and such conditions as the State, interstate agency, or Secretary may reasonably require. These conditions could include, among other things, provision for suspension or termination of the license or permit for failure to comply with the standards.

If, in the case of discharge affecting States other than the State of origin and where the Secretary requires conditions that are more stringent than those of the State where the discharge originates, the applicant may request a hearing by the Federal licensing or per-

mitting agency and such agency shall make findings on the conditions to be included in a license or permit. Such findings must be public and they shall not require conditions that are less stringent than those of the State where the discharge occurs. The licensing or permitting agency will, of course, provide an opportunity for the affected States and the Secretary to participate in such hearing and to appeal the findings in a Federal court within a reasonable time after the issuance thereof as provided in statute under which the license or permit is issued or under the Administrative Procedure Act.

The Federal licensee or permittee must provide the certifying State or, as appropriate, the interstate agency or the Secretary of notice of any changes in the facility or activity which may affect applicable water quality standards.

A certification for Federal license or permit for a particular facility or activity shall satisfy the requirement of certification for any later Federal license or permit necessary for such facility or activity unless, after receiving notice of an application for such later Federal license or permit, a State or the Secretary notifies such Federal licensing or permitting agency that there has been a change in the nature of the activity, the design of the facility, the natural characteristics of the waters into which the discharge will be made, or in the water quality standards applicable to such waters, and there is no longer reasonable assurance of compliance with water quality standards. In such instances a second certification will be required.

In the case of any Federally licensed or permitted facility or activity which is not required to obtain a Federal operating license or permit, the licensee or permittee must give the certifying State, or interstate agency, or the Secretary an opportunity to review the manner in which the facility or activity will be operated or conducted for the purpose of assuring compliance with water quality standards. This requirement would apply prior to the actual operation of the facility or activity. Upon receipt of notice from the certifying State, the interstate agency, or the Secretary, that the operation will not comply with the standards, the Federal agency must suspend the license or permit until notice is received of reasonable assurance of compliance.

If, in any case, a Governor of a State or the Secretary notifies the licensing or permitting agency that the facility or activity has been found by a court to be in violation of the standards, such license or permit may be suspended or terminated, as circumstances require, by the Federal agency.

[p. 74]

If actual construction of a facility has been begun under a Federal license or permit prior to the effective date of this section, no certifica-

tion shall be required for any Federal operating license or permit for such facility issued within 2 years of such date. Any Federal operating license or permit issued during such 2-year period, however, without the benefit of the certification must be terminated after the end of the 2-year period unless, prior to that time, the licensee or permittee obtains a certification. If, in any case where there is a Federal license or permit application pending on the effective date of this section and where such license or permit is issued within 1 year of such date, a certification will not be required for 1 year following the issuance of license or permit. The license or permit, however, will terminate at the end of that year unless certification is obtained.

In the case of any activity which will affect water quality for which there are no applicable standards, no certification will be required. However, a Federal licensing or permitting agency, in such event, must impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of the Act.

If a State in which a discharge originates or the Secretary notifies a Federal agency that its licensee or permittee has received notice of the adoption of water quality standards applicable to such activity and has failed to comply with the standards, the Federal agency must after a period of time, suspend license or permit until notice is received that there is reasonable assurance of compliance.

Section 16 (d)—Other authority not affected

This section provides that section 16 of the Act is not to be interpreted in any way to affect the authority of any Federal agency pursuant to this Act or any other provision of law relative to compliance with water quality standards. The Secretary of the Interior is also directed to provide technical assistance as may be necessary to carry out the purposes of this Act.

Section 16 (e)—Use of Federal spoil disposal area

This section will authorize Corps of Engineers to permit the use of spoil disposal areas under its jurisdiction by a Federal licensee or permittee and to charge for such use. Moneys received would be deposited to miscellaneous receipts.

SECTION 104

This section would amend section 5 to the Federal Water Pollution Control Act. The amendments would streamline the provisions of that section by deleting the present subsection (g) relating to an estuary study and inserting that subsection as a new subsection in section 21 of the Act.

The new section 5 would also add a new subsection (g) relating

to the training of personnel to operate and maintain existing and

[p. 75]

future treatment works and related activities. Under this new program the Secretary will finance pilot programs of manpower development in training and retraining of people interested in entering, or who are actually in the field of operation and maintenance of such works. The purpose of the program is to supplement, not supplant, other manpower training programs. The Secretary can carry out these programs directly or through joint ventures with the States and other public or private agencies.

The Secretary is also authorized to enter into agreements to develop and maintain an effective system for forecasting the needs of various occupational categories in the water pollution field.

The new subsection would authorize the Secretary, in carrying out the purposes of the Federal Water Pollution Control Act, to make grants and enter into contracts, establish and maintain research fellowships, and provide additional training in technical programs in the water pollution field. The Secretary is required to submit a report to Congress by September 30, 1970, summarizing actions taken under the new subsection; including information on the number of persons trained, categories for which training was provided, effectiveness of various training programs in this field, and provide estimates of the needs of this field.

This section would also add two new subsections to section 5 relating to lake pollution research and oil pollution research.

A new subsection (j) would be added which would give the Secretary authority to acquire land and interest therein by purchase, donation, or exchange in connection with any demonstration projects that he undertakes under the act and the development of field laboratory and research facilities. This authority is similar to that which was available to the program prior to its transfer from the Department of Health, Education, and Welfare to the Interior Department. While in HEW, that Department had broad land acquisition authority applicable to all its programs. In the case of the Department of the Interior, land acquisition authority is limited to specific program areas rather than a departmentwide basis.

This section would also authorize appropriations to carry out provisions of this section except subsection (g) (1) and (2) at the current level of authorization which is $65 million for fiscal years 1970 and 1971. In the case of subsection (g) (1), the authorization would be $5 million for fiscal year 1970 and $7.5 million for next fiscal year. In the case of subsection (g) (2), the authorization of $2.5 million for each of those fiscal years.

SECTION 105

This section would amend section 6 of the Act by extending the appropriation authorization 2 fiscal years at the current level of authorization.

SECTION 106

This section is a technical amendment deleting reference to the Oil Pollution Act of 1924.

SECTION 107

This section is a technical amendment inserting the word "navigable" in the provisions relating to the establishment of water quality standards. This addition would require that the Secretary, the Hearing

[p. 76]

Board, or a State consider the use and value of waters for navigation as well as for other purposes.

SECTION 108

This section would repeal the Oil Pollution Act of 1924.

TITLE II—ENVIRONMENTAL QUALITY

SECTION 201

This section would cite this title as the Environmental Quality Improvement Act of 1969 and make certain congressional findings relative to the national policy set forth in specific statutes for the enhancement of environmental quality.

SECTION 202

Federal Public Works Activities

This section would require each Federal agency conducting or supporting public works activity which affect the quality of the environment to implement the policies established by the President under this Act.

SECTION 203

Office of Environmental Quality

This section would establish in the Executive Office of the President an Office of Environmental Quality.

SECTION 204 ADVISORY COMMITTEES

This section would direct that an advisory committee be established

having a broad range of concern of population growth and environmental quality and planning for the future.

SECTION 205

This section would authorize appropriations to carry out the purposes of this title.

TITLE III—PROPERTY ACQUISITION

SECTION 301

This section would authorize the Architect of the Capitol to acquire real property for an additional office building for the U.S. Senate by purchase, condemnation, transfer, or otherwise. It also authorizes the Architect of the Capitol when directed by the Senate Office Building Commission to provide for demolition and/or removal of any building or other installation on such property and pending such demolition to use the property for governmental purposes or to lease the property. It extends the jurisdiction of the capitol police to such property once acquired and authorizes appropriations to carry out the purposes of this Act.

[p. 77]

CHANGES IN EXISTING LAW

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

FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

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 Federal technical services and financial

aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution. The Secretary of the Interior (hereinafter 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.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

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 Pollution Control 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

[p. 78]

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.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 3. (a) The Secretary shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution control agencies and interstate 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 Secretary 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 Secretary, 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.

(c) (1) The Secretary 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.

[p. 79]

(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 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 recom-

mends 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, lake, and portions thereof, as well as the lands drained thereby.

INTERSTATE COOPERATION AND UNIFORM LAWS

SEC. 4. (a) The Secretary 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 State laws relating to 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 Secretary shall conduct in the Department of the Interior 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 Secretary 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;]

(2) make grants-in-aid to public or private agencies and institutions and to individuals for research and demonstrations, and provide for the conduct of research 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; and

(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 Department of the Interior 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 Secretary 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 Secretary may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and research and make surveys concerning 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 Secretary shall, in cooperation with other Federal, State and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and biological 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 Secretary 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 developments; 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.

(e) The Secretary shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be [p. 81]
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 Secretary 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) 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 supplement 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.

[p. 82]

[(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, and June 30, 1969, 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 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.]

(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 Secretary shall finance a pilot program, 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, 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 Secretary 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 Secretary 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 Secretary 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 Department of the Interior 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 water pollution for personnel of public agencies and other persons with suitable qualifications.

(4) The Secretary shall submit, through the President, a report to the Congress by September 30, 1970, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the

[p. 83]

number of persons trained, the occupational categories for which training was provided, the effectiveeness 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 Secretary 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, and (B) the construction of publicly owned research facilities for such purpose.

(i) The Secretary shall 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, and shall publish from time to time the results of such activities. In carrying out this subsection, the Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) In carrying out the provisions of this section relating to the conduct by the Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary 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 Secretary as the circumstances require.

[(h) There is authorized to be appropriated to carry out this section, other than subsection (g), not to exceed $60,000,000 for the fiscal year ending June 30, 1968, and $65,000,000 for the fiscal year ending June 30, 1969. Sums so appropriated shall remain available until expended.**]**

(k) There is authorized to be appropriated to carry out this section, other than subsection (g) (1) and (2), not to exceed $65,000,000 annually for 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 annually for the fiscal years ending June 30, 1970, and June 30, 1971. Sums so appropriated shall remain available until expended.

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Secretary is authorized to make grants to any State, municipality, or intermunicipality 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 water 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

[p. 84]

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 Secretary 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) 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 Secretary; and

(3) No grant shall be made for any project under this section unless the Secretary 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

(3) No grant shall be made for any project unless the Secretary 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 methods 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 [three] *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 [two] *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 [two] *four* succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in subsection (b).

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

[p. 85]

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 Secretary 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) From each State's allotment under subsection (c) for any fiscal year the Secretary 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.

(e) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to interstate agencies,

in accordance with regulations, on such basis as the Secretary 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.

(f) The Secretary 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 Secretary 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 extension or improvement of the State or interstate program for prevention and control of water pollution;

(5) provides such accounting, budgeting, and other fiscal

[p. 86]

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 Secretary 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.

(g) (1) Whenever the Secretary, 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 Secretary 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 Secretary 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 Secretary'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 Secretary, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary 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 Secretary 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 shares" shall be promulgated by the Secretary 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

[p. 87]

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 Secretary 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 Secretary may find necessary.

(2) The Secretary 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 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 Secretary may determine.

GRANTS FOR CONSTRUCTION

SEC. 8. (a) The Secretary 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 Secretary 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 Secretary; (3) no grant shall be made unless the grantee agrees to pay the remaining cost;

[p. 88]

(4) no grant shall be made for any project under this section until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation 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 no less than 30 per centum of the estimated reasonable cost (as determined by the Secretary) 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 Secretary) 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 accordance with section 10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

(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 Secretary 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 subsection (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 allotted by the Secretary 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 Secretary 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 sentences

[p. 89]

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 allotted by the Secretary, 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: *Provided, however,* That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project 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, except 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 Secretary 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 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 finding by the Secretary 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.

[p. 90]

(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 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 work servicing municipalities of one hundred and twenty-five thousand population or under.

(e) The Secretary 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 Secretary 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 statistical 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.

[p. 91]

(g) The Secretary 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 sec-

tion 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., 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).

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 9. (a) (1) There is hereby established in the Department of the Interior a Water Pollution Control Advisory Board, composed of the Secretary 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 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 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 but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceding 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 at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secre-

tary, 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.

[p. 92]

(b) The Board shall advise, consult with, and make recommendations to the Secretary on matters of policy relating to the activities and functions of the Secretary 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 Department of the Interior.

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 or 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 waters 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 Secretary 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 paragraph (1) of this subsection, or if the Secretary or the Governor of any State affected by water quality standards established pursuant to this subsection desires a revision in such standards, the Secretary may, after reason-

able 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 Secretary publishes such regulations, the State has not adopted water quality standards found by the Secretary 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 Secretary 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 Secretary, the Hearing Board, or the appropriate State authority shall take into consideration their use and value for

[p. 93]

public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, *navigation* and other legitimate uses.

(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 Secretary for a hearing, the Secretary 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 Secretary. 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 Department of the Interior. 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 Secretary, 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 to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the Hearing Board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the standards as published or promulgated by the Secretary, the Secretary 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 paragraph (1) or (2) of subsection (g) as authorized by this subsection, the Secretary shall notify 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

[p. 94]

for in this subsection, together with the recommendations of the conference and Hearing Board and the recommendations and standards promulgated by the Secretary, 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 a determination of all other issues relating to the alleged violation. The court, giving due 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 case 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 a 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 Secretary 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 Secretary 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 Secretary, 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 Secretary 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 substantial 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 Secretary, 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

[p. 95]

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 Secretary, 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 foreign country which the Secretary 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 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 Secretary 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 Secretary 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 Secretary shall allow at least 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 Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary 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 Secretary.

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

[p. 96]

Hearing Board shall be persons other than officers or employees of the Department of the Interior. 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 pollution referred to in subsection (a) is occurring and 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 Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution. The Secretary shall send such findings and 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 Secretary 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 Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. 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 Secretary 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 Secretary 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.

[p. 97]

(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 Secretary—

(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 (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 case may require.

(i) Members of any Hearing Board appointed pursuant to sub-section (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 Secretary, 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.

(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 Secretary 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

[p. 98]

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 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 Secretary 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.

CONTROL OF SEWAGE FROM VESSELS

Sec. 11. (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 has been 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 in any case in which such vessel is engaged in commerce;

(4) "United States" includes 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" means any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge 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 having installed on board such devices; and

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel.

(b) (1) Not later than two years after the enactment of this section, the Secretary, 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 (hereinafter referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into

[p. 99]

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 the standards issued 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 device or devices installed pursuant to the requirements of State statute, regulation, or recommended levels of control set forth in the Handbook on Sanitation and Vessel Construction (Public Health Service, 1965) prior to the promulgation of the initial standards and regulations required by this section shall be deemed in compliance with this section until such time as the device or devices are replaced or are found not to be in compliance with such State statute, regulation, or recommended level.

(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.*

(2) The Secretary of the department in which the Coast Guard is operating with regard to the regulatory authority established by this section, 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, and, upon application, for individual vessels.

(d) *The provisions of this section and the standards and regulations promulgated thereunder shall 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.*

(e) Before the standards and regulations under this section are promulgated, the Secretary 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 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 any standards and regulations established pursuant to this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation with respect to the design, manufacture, installation, or use of any marine sanitation device in connection with any vessel subject to the provisions of this section, except that nothing in this subsection shall restrict the author-

ity of a State to prohibit the discharge of sewage in any waters within a State where implementation of applicable water quality standards requires such prohibition.

(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

[p. 100]

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 Secretary 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 the procedures set forth by the Secretary 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 Secretary 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 thereunder and shall, upon request of an officer or employee duly designated by the Secretary 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 Secretary 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.

(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

[p. 101]

(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 jurisdiction to restrain violators of subsection (h) of this section. Actions to restrain such violators shall be brought by, and in, the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district. 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 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 viola-

tion. 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 or 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 Secretary, 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, board and inspect any vessel upon the navigable waters of the United States, and execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) The several district courts of the United States are invested with jurisdiction for any actions 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 District Court for the District of the Canal Zone.

[p. 102]

CONTROL OF OIL DISCHARGES

Sec. 12. (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" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(3) "vessel" includes 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 char-

tered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation or political subdivision thereof, except in any case in which such vessel is engaged in commerce;

(5) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Canal Zone, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means, as the context requires, any person owning, operating, or chartering by demise, a vessel, or any person owning or operating an onshore or offshore facility or an onshore or offshore drilling-production facility;

(7) "person" includes an individual, firm, corporation, association, or a partnership;

(8) "remove" or "removal" includes removal of the oil from the water and shorelines and the taking of 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 shorelines;

(9) "contiguous zone" means the entire zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore or offshore drilling-production facility" means any facility of any kind and related appurtenances, thereto 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, which is used or capable of being used for the purpose of exploring, drilling, or producing oil;

(11) "onshore or offshore facility" means any facility, other than an onshore or offshore drilling-production facility, of any kind and related appurtenances thereto 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, which is used or capable of being used for the purpose of processing, transporting, or transferring oil, or for the purpose of storing oil for any commercial purpose, but does not include any facility, other than a marine facility, used or capable of being used to store five hundred barrels of oil or less; and

(12) "act of God" means an act occasioned exclusively by violence of nature without the interference of any human agency.

(b) (1) 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 is prohibited, except (A) in the case of such

discharges into the waters of the contiguous zone, where permitted under article IV

[p. 103]

of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, deem appropriate. 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.

(2) Any vessel, onshore or offshore facility, or onshore or offshore drilling-production facility from which oil is knowingly discharged in violation of the provisions of paragraph (1) of this subsection shall be subject to an in rem civil penalty of not more than $2,500 for each offense. No penalty shall be assessed unless the owner or operator of the vessel or of the onshore or offshore facility has been given notice and an opportunity for a hearing with respect to such discharge. Any such penalty also may be compromised. In determining the amount of such penalty, or the amount agreed upon in compromise, the gravity and nature of the violation, the history of discharges by such vessel or facility, the giving of notice pursuant to subsection (c), and any action taken to minimize or mitigate damage, including removal of discharged oil in accordance with the provisions of this section and the regulations promulgated thereto, shall be taken into consideration.

(c) In order to facilitate the removal of oil and minimize or mitigate damage resulting from the discharge thereof, any person in charge of a vessel, an onshore or offshore facility, or an onshore or offshore drilling-production facility shall, as soon as he has knowledge of any discharge of oil from such vessel or facility in violation of subsection (b) of this section or the regulations promulgated thereunder, 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 $5,000, or imprisoned for not more than one year, or both. Notification received pursuant to this subsection shall not be used by the United States Government to enforce the provisions of any other Federal law or to provide any information obtained from such notice to any State for the purpose of any criminal prosecution.

(d) (1) Within one hundred and eighty days after the effective date of this section, the President shall, consistent with maritime safety, marine and navigation laws, and applicable water quality

standards, issue regulations (A) relative to the procedures, methods, and equipment for preventing discharges of oil, (B) establishing criteria relating to the procedures, methods, means, and equipment used in the removal of discharged oil, and (C) establishing criteria for the development and implementation of oil removal contingency plans. The regulations shall also provide procedures for the review and approval of such plans, where appropriate.

(2) Any owner or operator of a vessel, onshore or offshore facility, or onshore or offshore drilling-production facility who fails or refuses to comply with the provisions of any regulation issued under paragraph (1) of this subsection, shall be subject to an in rem civil penalty of not more than $1,000 for each such failure or refusal. No penalty shall be assessed until such owner or operator has been given notice and an opportunity for a hearing on such charge. Any such penalty also may be compromised. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity and nature of the violation, the history of previous violations, and the demonstrated good faith of the owner or operator charged in attempting to achieve rapid compliance, after notification of an offense, shall be taken into consideration.

[p. 104]

(e) Whenever any oil is discharged in violation of subsection (b) of this section, unless removal is immediately undertaken by the owner or operator of the vessel, onshore or offshore facility, or onshore or offshore drilling-production facility from which the discharge occurs pursuant to the regulations promulgated under subsection (d) of this section, the President shall remove or arrange for the removal thereof. 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 oil at any time.

(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 of a third party, such owner or operator of any vessel from which oil is discharged, or which causes the discharge of oil, into or upon the navigable waters of the United States or adjoining shorelines of the waters of the contiguous zone shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (e) for the removal of such oil by the United States Government in an amount not to exceed $125 per gross ton of such vessel or $14 million, whichever is lesser, except that where such discharge was the result of negligence or a willful act, such owner or operator shall be liable to the United States Government for the full amount of such costs.

(2) (A) *Each owner or operator of a vessel over three hundred gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters of the United States, shall establish and maintain, under regulations prescribed by the designated Federal agency, evidence of financial responsibility of $100 per gross ton of the liability to which the vessel could be subjected under paragraph (1) of this subsection. Financial responsibility may be established and maintained by any one of, or a combination of, the following methods acceptable to the designated Federal agency: (i) evidence of insurance, (ii) surety bonds, (iii) qualification as self-insurer, or (iv) other evidence of financial responsibility satisfactory to the designated Federal agency.*

(B) If a bond is filed with the designated Federal agency, then such bond shall be issued by a bonding company authorized to do business in the United States.

(C) 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.

(g) Each owner or operator of a vessel subject to the provisions of this subsection shall designate a person in the United States as his legal agent for service of process under this section.

(h) The Secretary of the Treasury shall, upon request of the delegate of the President, withhold, at the port or place of departure from the United States, the clearance of a vessel, other than a public vessel, required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), which (1) is liable to the United States Government for any costs or penalties under subsection (b) or (f) of this section until such costs or penalties are paid or until a bond or other satisfactory surety is posted, or (2) has failed to meet the requirements of subsection (f) (2) of this section.

(i) (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 of a third party,

[p. 105]

the owner or operator of any onshore or offshore facility from which oil is discharged into or upon the navigable waters of the United States or adjoining shorelines shall be liable to the United States Government for the actual costs incurred for the removal of such oil by the United States Government in an amount not to exceed $125 per ton of oil which such facility is capable of (i) processing, (ii) transporting, (iii) transferring, in any twenty-four hour period, or (iv) storing in the largest unit of such facility,

whichever is greater, except where the discharge was the result of negligence or a willful act, the owner or operator shall be liable to the United States Government for the full amount of such costs.

(2) 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 of a third party, the owner or operator of an onshore or offshore drilling-production facility from which oil is discharged, or which causes the discharge of oil, into or upon the navigable waters of the United States or adjoining shorelines shall be liable to the United States Government for the actual costs incurred in the removal of such oil by the United States Government in an amount not to exceed $8,000,000 except, where the discharge was the result of negligence or a willful act, the owner or operator shall be liable to the United States Government for the full amount of such costs.

(j) (1) In any case where an owner or operator removes oil discharged from a vessel into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or removes oil discharged into or upon the navigable waters of the United States or adjoining shorelines from an onshore or offshore facility or an onshore or offshore drilling-production facility, 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, or (D) an act of a third party.

(2) In any case where recovery of costs is obtained by an owner or operator pursuant to this subsection and the discharge involved was caused by an act of a third party, the United States Government shall be subrogated to any rights such owner or operator may have against such third party due to causing such discharge.

(3) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

(4) 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).

(k) (1) The President is authorized to delegate the responsibility of administering the provisions of this section to one or more appropriate Federal agencies. Any moneys in the fund established by this subsection shall be available to such Federal agencies to carry out the provisions of subsections (e) and (j) of this section. Each such agency, in order to avoid duplication of effort, shall, whenever

appropriate, utilize the personnel, services, and facilities of other Federal agencies.

(2) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $50,000,000. Any funds received by the United States Government 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.

[p. 106]

(l) The liability established by this section shall in no way affect any rights which (1) the owner or operator of a vessel, an onshore or offshore facility, or an onshore or offshore drilling-production 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.

(m) Anyone authorized by the President to enforce the provisions of this section may (1) board and inspect any vessel upon the navigable waters of the United States, (2) 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 (3) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(n) (1) Where as determined by the President 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 shorelines within the United States, because of an actual or threatened discharge of oil into or upon the navigable waters of the United States from a vessel, the delegate of the President shall have the right to take immediate possession of such vessel so far as to remove it or take such other action as may be appropriate to eliminate or mitigate such threat, and to prevent any unnecessary injury, and no one shall interfere with or prevent such removal or other action, except that the head of the agency charged with removal or other action under this subsection may, in his discretion, give notice in writing to the owner or operator of any such vessel requiring them to act. 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.

(2) 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 shorelines 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 drilling-production facility or 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.

(o) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (j) (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.

(p) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal agency relative to onshore or offshore facilities, or onshore or offshore drilling-production facilities under this Act or any other provision of law or to affect or modify any State or local law not in conflict with the provisions of this section.

[p. 107]

(q) 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 oil or from the removal of any such oil.

CONTROL OF HAZARDOUS POLLUTING SUBSTANCES

"Sec. 13. (a) The President shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise as may be appropriate regulations (1) designating as hazardous substances, other than oil as defined in section 12 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 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; and (2) establishing, if appropriate, criteria for the removal of such substances, including criteria relative to the methods and means of removal.

"(b) In the development of such regulations, the President or his delegate shall consult with other interested Federal agencies, repre-

sentatives of State agencies, and other interested persons and organizations. Consideration shall be given to the latest available scientific data in the field, the technical feasibility of the regulations, and experience gained under this Act.

"(c) The President shall from time to time publish any such proposed regulations in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. Except as provided in subsection (d) of this section, the President may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such regulations with such modifications as he may deem appropriate.

(d) On or before the last day of any period fixed for the submission of written data or comments under subsection (c), any interested person may file with the President written objections to a proposed regulation, stating the grounds therefor and requesting a public hearing. As soon as practicable after the period for filing such objections has expired, the President shall publish in the Federal Register a notice specifying the proposed regulations to which objections have been filed and a hearing requested, and shall promptly hold a public hearing for the purpose of receiving relevant evidence. After completion of the hearing, the President shall make findings of fact on such objections, and the President may promulgate the regulations with such modifications as he deems appropriate, or take such other action as he deems appropriate. All such findings shall be made public.

(e) Any aggrieved person may, within sixty days after promulgation in the Federal Register of any regulation for which a hearing was held under subsection (d), file with the United States Court of Appeals for the District of Columbia a petition praying that such regulation be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the President, and thereupon the President shall certify and file in such court the record upon which the President

[p. 108]

made his decision, as provided in section 2112, title 28, United States Code. The court shall hear such appeal on the record made before the President. The findings of the President, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the President for such further action as it directs. The review provided by this subsection shall be the exclusive review available to such person of any such regulation and such regulation shall not be the subject of any review during any procedure leading to the enforcement of such

regulation. The filing of a petition under this subsection shall not stay the application of the regulation complained of, unless the court so orders, upon finding that there is a substantial likelihood that the President's findings are erroneous, and that irreparable injury will result without such a stay.

(f) Any regulation promulgated under this section shall be effective upon publication in the Federal Register unless the President specifies a later date.

(g) 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 substance from such vessel or facility, immediately notify the appropriate agency of the United States of such discharge. Any such person who knowingly fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $5,000, or imprisoned for not more than one year or both. Notification received pursuant to this subsection shall not be used by the United States Government to enforce the provisions of any other Federal law or to provide any information obtained from such notice to any State for the purpose of any criminal prosecution.

(h) 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.

(i) Any owner or operator of a vessel or onshore or offshore facility who fails or refuses to comply with the provisions of any regulations promulgated under this section shall be subject to an in rem civil penalty of not more than $5,000 for each such failure or refusal. No penalty shall be assessed until such owner or operator has been given notice and an opportunity for a hearing on such charge. Any such penalty also may be compromised. In determining the amount of the penalty, or amount agreed upon in compromise, the gravity and nature of the violation, the demonstrated good faith of the owner or operator charged in attempting to achieve rapid compliance after notification of a violation, and the history of previous violations shall be considered.

(j) 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

[p. 109]

to any publicly or privately-owned property resulting from a discharge of any hazardous substance or from the removal of any such substance.

(k) Anyone authorized by the President to enforce the provisions of this section may (1) board and inspect any vessel upon the navigable waters of the United States, (2) 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 (3) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(l) The several district courts of the United States are invested with jurisdiction for any actions 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.

(m) (1) For the purpose of this section the definitions in subsection (a) of section 12 of this Act shall be applicable to the provisions of this section, except as provided in paragraph (2) of this subsection;

(A) "remove" or "removal" includes removal of the hazardous substances from the water and shorelines and the taking of 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 shorelines;

(B) "owner or operator" means, as the context requires, 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.

(n) *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. 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 their discharge, the most appropriate measures for enforcement and recovery of costs incurred by the United States if removal is undertaken by the United States, and methods of imposing civil or criminal sanctions where removal is impossible or impractical. In carrying out this study, the President shall consult with, the interested representatives of the various public and private interest groups that would be affected by such legislation as well as other interested persons.*

[p. 110]

(o) *The President is authorized to delegate the responsibility of administering the provisions of this section to one or more appropriate Federal agencies. Any moneys in the fund established by section 12 of this Act shall be available to such Federal agencies to carry out the purposes of this section. Each such agency, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal agencies.*

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

Sec. 14. (a) *The Secretary in cooperation with other Federal agencies 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 Secretary, 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.

POLLUTION CONTROL IN GREAT LAKES

Sec. 15. (a) The Secretary, in cooperation with other Federal agencies, 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

[p. 111]

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, personal property or services, the value of which shall be determined by the Secretary.

(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.

[COOPERATION TO CONTROL POLLUTION FROM FEDERAL INSTALLATIONS

[SEC. 11. It is hereby declared to be the intent of the Congress that any Federal department or agency having jurisdiction over any

building, installation, or other property shall, insofar as practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of the Interior, and with any State or interstate agency or municipality having jurisdiction over waters into which any matter is discharged from such property, in preventing or controlling the pollution of such waters. In his summary of any conference pursuant to section 10(d) (3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 10(f) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board.]

COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

Sec. 16. (a) (1) Each Federal agency having jurisdiction over any real property, facility or activity of any kind, shall consistent with an approved plan for implementation, 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 Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such 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 hearing shall include references to any such discharges which are contributing to the pollution found by such board.

(2) There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

[p. 112]

(b) Each Federal agency which leases any Federal property or facility of any kind or which contracts for the operation of any Federal property or facility or which contracts for the entire operation of any other facility, shall insure compliance with applicable water quality standards and the purposes of this Act in the adminis-

tration of such lease or contract. Any certification obtained for a Federal license or permit pursuant to subsection (c) shall be evidence of compliance with water quality standards for the purposes of this subsection.

(c) (1) Any applicant for a Federal license or permit to construct or operate any facility or to conduct any activity which may result in any discharge into the navigable waters of the United States shall provide certification from the State in which the discharge originates or, if appropriate, the interstate water pollution control agency to the licensing or permitting agency and notice thereof to the Secretary that there is reasonable assurance that such facility or activity will comply with applicable water quality standards, except that in any case where standards for interstate water have not been approved or where such standards have been promulgated by the Secretary pursuant to section 10 (c) of this Act, such certification shall be obtained from the Secretary. Such State or if appropriate interstate agency or the Secretary shall, within one year of receipt of any application for such certification, notify the applicant of such certification or of intent not to certify. Whenever such discharge may affect, as determined by the Secretary, the applicable water quality standards of any other State or States, the Secretary, within sixty days of the date of notice of application for a Federal license or permit shall notify such other State or States. If, within thirty days after receipt of such notification, such other State or States determine that such discharge will adversely affect their water quality standards, the Secretary, within thirty days after the State or States make such determination, shall review such determination and, if he finds that such discharge will adversely affect the water quality standards of such State or States, shall require before such license or permit is issued such conditions as may be necessary to insure compliance with applicable water quality standards. No license or permit shall be granted without such certification and such conditions as the State or, as appropriate, the interstate agency or, as appropriate, the Secretary may reasonably require, including, but not limited to, provision for suspension or termination of any issued license or permit for failure to be in compliance with applicable water quality standards. In any case where such conditions required by the Secretary are more stringent than, or in conflict with conditions required by the certifying State or, if appropriate, interstate agency, the licensing or permitting agency, upon request of the applicant for a license or permit, shall hold a hearing and make findings of fact on the conditions to be included in any license or permit, except that no such findings shall be adopted that are less stringent than the conditions required by the certifying State. The licensee or permittee shall provide the certifying State

or, if appropriate, the interstate agency, or the Secretary, with notification of any changes in the proposed facility or activity which may affect applicable water quality standards.

"(2) The certification obtained pursuant to paragraph (1) of this subsection shall fulfill the requirements of this subsection with respect to any other Federal license or permit required for such facility or activity, unless, after notice of application for such other Federal license or permit has been

[p. 113]

given by such Federal agency, the State or, if appropriate, the interstate agency or the Secretary, notifies within sixty days after receipt of such notice such Federal agency of a change since providing such certification in (A) the nature of the activity, (B) the design of the facility, (C) the natural characteristics of the waters into which such discharge is made, or (D) the water quality standards applicable to such waters, and that, due to such change, there is no longer reasonable assurance that there will be compliance with applicable water quality standards.

"(3) Prior to the operation of any federally licensed or permitted facility or activity, not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State and, if appropriate, the interstate agency or the Secretary to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring compliance with applicable water quality standards. Upon notification by the certifying State, or if appropriate, the interstate agency or the Secretary that the operation of any federally licensed or permitted facility or activity will not comply with applicable water quality standards, such Federal agency shall suspend such license or permit until notification is received that there is reasonable assurance that such facility or activity will comply with applicable water quality standards.

(4) Upon notification by the Governor of the certifying State, or, as appropriate, the interstate agency or the Secretary, that any such federally licensed or permitted facility or activity has been found by a court of competent jurisdiction, pursuant to applicable State or Federal law, to be in violation of the applicable water quality standards such license or permit may be suspended or terminated as the circumstances require.

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

(6) In any case where actual construction of a facility for the conduct of any activity has been commenced pursuant to a Federal li-

cense or permit prior to the date of enactment of the Water Quality Improvement Act of 1969, no certification under this subsection shall be required for any Federal operating license or permit respecting that activity issued within two years following such date: Provided, That any operating license or permit issued during the two-year period following such date of enactment without such certification shall terminate at the end of that period unless prior to such date the licensee or permittee submits to the Federal agency that issued such license or permit a certification which otherwise meets the requirements of paragraph (1) of this subsection.

(7) Except as provided in paragraph (6), any application for a license or permit that is (a) pending on the date of enactment of the Water Quality Improvement Act of 1969 and (b) that is issued within one year following the date of enactment shall not require certification pursuant to this subsection for one year following the issuance of such license or permit: Provided, 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 which otherwise meets the requirements of this subsection.

(8) (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.

[p. 114]

(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, 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 Secretary that there is reasonable assurance that such activity will comply with applicable water quality standards.

(d) 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 Secretary 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.

(e) 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.

ADMINISTRATION

SEC. [12.] *17.* (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Secretary, 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 Department of the Interior 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 Secretary 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 Secretary of the Interior 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.

DEFINITIONS

SEC. [13.] *18.* 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 an Indian tribe or an authorized Indian tribal organization.

OTHER AUTHORITY NOT AFFECTED

SEC. [14.] *19.* 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 [the Oil Pollution Act, 1924, or] 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.

SEPARABILITY

SEC. [15.] *20.* 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. [16.] *21.* (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 Secretary, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall

make a detailed estimate of the cost of carrying out the provisions 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

[p. 116]

applicable State law. The Secretary shall submit 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.]

(b) (*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 supplement 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, and June 30, 1970, 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 intertidal areas, bays, harbors, lagoons, inshore waters, and navigable or interstate river or stream or other body of water having channels,

[p. 117]

and the term "estuary" means all or part of the mouth of a unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

[SEC. 17. The Secretary of the Interior shall, in consultation with the Secretary of the Army, the Secretary of the department in which the Coast Guard is operating, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, conduct a full and complete investigation and study of the extent of the pollution of all navigable waters of the United States from litter and sewage discharged, dumped, or otherwise deposited into such waters from watercraft using such waters, and methods of abating either in whole or in part such pollution. The Secretary shall submit a report of such investigation to Congress, together with his recommendations for any necessary legislation, not later than July 1, 1967.

[SEC. 18. The Secretary of the Interior shall conduct a full and complete investigation and study of methods for providing incentives designed to assist in the construction of facilities and works by industry designed to reduce or abate water pollution. Such study shall include, but not be limited to, the possible use of tax incentives as well as other methods of financial assistance. In carrying out this study the Secretary shall consult with the Secretary of the Treasury

as well as the head of any other appropriate department or agency of the Federal Government. The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than January 30, 1968.]

SHORT TITLE

SEC. [19.] *22.* This Act may be cited as the "Federal Water Pollution Control Act."

DISCRIMINATION PROHIBITED.—Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." Therefore, programs authorized by this Act, like every other program or activity receiving financial assistance from the Department of the Interior, must be operated in compliance with this law.

THE OIL POLLUTION ACT, 1924

[SECTION 1. This Act may be cited as the "Oil Pollution Act, 1924".

[SEC. 2. When used in this Act, unless the context otherwise requires—

[(1) "oil" means oil of any kind or in any form, including fuel oil, sludge, and oil refuse;

[(2) "person" means an individual, company, partnership, corporation, or association; any owner, operator, master, officer, or employee of a vessel; and any officer, agent or employee of the United States;

[p. 118]

[(3) "discharge" means any grossly negligent, or willful spilling, leaking, pumping, pouring, emitting, or emptying of oil;

[(4) "navigable waters of the United States" means all portions of the sea within the territorial jurisdiction of the United States, and all inland waters navigable in fact; and

[(5) "Secretary" means the Secretary of the Interior.

[SEC. 3. (a) Except in case of emergency imperiling life or property, or unavoidable accident, collision, or stranding, and except as otherwise permitted by regulations prescribed by the Secretary as hereinafter authorized, it is unlawful for any person to discharge or permit the discharge from any boat or vessel of oil by any method, means, or manner into or upon the navigable waters of the United States, and adjoining shorelines of the United States.

[(b) Any person discharging or permitting the discharge of oil from any boat or vessel, into or upon the navigable waters of the

United States shall remove the same from the navigable waters of the United States, and adjoining shorelines immediately. If such person fails to do so, the Secretary may remove the oil or may arrange for its removal, and such person shall be liable to the United States, in addition to the penalties prescribed in section 4 of this Act, for all costs and expenses reasonably incurred by the Secretary in removing the oil from the navigable waters of the United States, and adjoining shorelines of the United States. These costs and expenses shall constitute a lien on such boat or vessel which may be recovered in proceedings by libel in rem.

[(c) The Secretary may prescribe regulations which—

[(1) permit the discharge of oil from boats or vessels in such quantities under such conditions, and at such times and places as in his opinion will not be deleterious to health or marine life or a menace to navigation, or dangerous to persons or property engaged in commerce on navigable waters of the United States; and

[(2) relate to the removal or cost of removal, or both, of oil from the navigable waters of the United States, and adjoining shorelines of the United States.

[SEC. 4. (a) Any person who violates section 3(a) of this Act shall, upon conviction thereof, be punished by a fine not exceeding $2,500, or by imprisonment not exceeding one year, or by both such fine and imprisonment for each offense.

[(b) Any boat or vessel other than a boat or vessel owned and operated by the United States from which oil is discharged in violation of section 3(a) of this Act shall be liable for a penalty of not more than $10,000. Clearance of a boat or vessel liable for this penalty from a port of the United States may be withheld until the penalty is paid. The penalty shall constitute a lien on such boat or vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which such boat or vessel may be.

[SEC. 5. The Commandant of the Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any boat or vessel found violating the provisions of section 3 of this Act.

[p. 119]

[SEC. 6. In the administration of this Act the Secretary may, with the consent of the Commandant of the Coast Guard or the Secretary of the Army, make use of the organization, equipment, and agencies, including engineering, clerical, and other personnel, employed by the Coast Guard or the Department of the Army, respectively, for the

preservation and protection of navigable waters of the United States. For the better enforcement of the provisions of this Act, the officers and agents of the United States in charge of river and harbor improvements and persons employed under them by authority of the Secretary of the Army, and persons employed by the Secretary, and officers of the Customs and Coast Guard of the United States shall have the power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of such provisions, except that no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid persons. Whenever any arrest is made under the provisions of this Act the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him, and such commissioner, judge or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States.

[SEC. 7. This Act shall be in addition to other laws for the preservation and protection of navibable waters of the United States and shall not be construed as repealing, modifying, or in any manner affecting the provisions of such laws.]

[p. 120]

1.2k(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91–940, 91st Cong., 2d Sess. (1970)

WATER QUALITY IMPROVEMENT ACT OF 1970

MARCH 24, 1970.—Ordered to be printed

Mr. FALLON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4148]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—WATER QUALITY IMPROVEMENT

Sec. 101. This title may be cited as the "Water Quality Improvement Act of 1970".

Sec. 102. Existing sections 17 and 18 of the Federal Water Pollution Control Act, as amended, are hereby repealed. Section 19 of such Act is redesignated as section 27. Sections 11 through 16 of such Act are redesignated as sections 21 through 26, respectively. Such Act is further amended by inserting after section 10 the following new sections:

"CONTROL OF POLLUTION BY OIL

"Sec. 11. (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;

[p. 1]

"(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 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.

"(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

[p. 2]

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, includ-

ing, 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 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.

"(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 remove or arrange for the removal of such oil 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 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;*

[p. 3]

"(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;*

"(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 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 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 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 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 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.

"(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.

[p. 4]

"(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, 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 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 Govern-

ment 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 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 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 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 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 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 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.*

"*(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 clauses.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

[p. 6]

"(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, (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.

"(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

[p. 7]

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 to any person or agency under any provision of law for damages to any publicly-owned or pri-

vately-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 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, 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) qualifications 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 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) *The Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, and taking*

[p. 8]

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;*

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 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; 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 substance 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—*

"*(A) 'remove' or 'removal' refers to removal of the hazardous substances from the water and shorelines or the taking of such*

[p. 9]

other actions as may be necessary to minimize or mitigate damage to 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 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 includ-*

ing 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.

"(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 facilities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

"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, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

[p. 10]

"(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 Secretary, 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 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 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 Secretary, may distinguish among classes, types, and sizes of vessels as well as between new and existing

[p. 11]

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 Secretary 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) 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. Upon application by a State, and where the Secretary 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.

"(g) (1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction to 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 Secretary 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.*

[p. 12]

"(3) *Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary 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 Secretary 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 Secretary 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 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) 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) 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*

[p. 13]

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 Secretary, 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, 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.*

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"Sec. 14. (a) The Secretary 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 Secretary, 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.

[p. 14]

"(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.

OIL POLLUTION ACT, 1924

"Sec. 15. (a) The Secretary, 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 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 Secretary.

"(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.

"TRAINING GRANTS AND CONTRACTS

"Sec. 16. The Secretary 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, im-

proving, 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.

[p. 15]

"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 Secretary 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 Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(2) *The Secretary 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 purposes of this section.*

"(3) (A) *Payment under this section may be used in accordance with regulations of the Secretary, 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 Secretary 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 Secretary may determine but not to exceed four academic years.

"(2) *The Secretary 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.*

[p. 16]

"(3) *The Secretary 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 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 Secretary 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 Secretary 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 Secretary 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 Secretary 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 Secretary by or pursuant to regulation.*

"(6) *The Secretary 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 Secretary determines appropriate.*

"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 an educational institution described in the first sentence of section 1201 of the Higher

[p. 17]

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 Secretary for this purpose. For purposes of this subsection, the Secretary 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 Secretary.

"(2) The Secretary shall annually report his activities under sections 16 through 19 of this Act, including recommendations 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. 20. (a) The Secretary 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 the elimination or control of water pollution in those native villages of Alaska without such facilities. Such projects 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 Secretary 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 Secretary 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."

Sec. 103. Redesignated section 21 of the Federal Water Pollution Control Act, as amended, is amended to read as follows:

"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

[p. 18]

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 Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such 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 hearing shall include references to any such discharges which are contributing to the pollution found by such board.

"(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 Secretary 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 Secretary. If the State, interstate agency, or Secretary, 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 Secretary, as the case may be.*

"(2) *Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary 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 its water quality standards, and within such sixty-day period notifies the Secretary 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 Secretary 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 Secretary, and upon any additional evidence, if any, presented to the agency at the hearing,*

[p. 19]

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.

"(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 Secretary, 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 Secretary, 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 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, 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 Secretary, 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 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 Secretary 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 Secretary 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 Secretary, 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 certification shall be required under this subsection for a license or permit issued after the date of enactment of*

[p. 20]

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.*

"(B) *Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, 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 Secretary 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 Secretary 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 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."

Sec. 104. Redesignated section 22 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following:

"(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 Secretary shall, in

[p. 21]

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 Secretary 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 Secretary, and the awarding of such recognition shall be published in the Federal Register."

Sec. 105. Section 5 of the Federal Water Pollution Control Act, as amended, is amended as follows:

(1) by redesignating subsections (g) and (h) as (m) and (n), respectively, including all references thereto;

(2) by inserting after subsection (f) the following new subsections:

"(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 Secretary shall finance a pilot program, 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, 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 Secretary 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 Secretary 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 Secretary 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 Department of the Interior 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 water pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Secretary 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 Secretary 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 construction of publicly owned research facilities for such purpose.

"(i) The Secretary 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 Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary 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 shall report to Congress the results of such research, studies, experiments, and demonstra-

tions prior to the effective date of any standards established under section 13 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 Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary 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 Secretary as the circumstances require.

[p. 23]

"(l) (1) The Secretary 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, 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."

(3) in redesignated subsection (m) (4) by striking out the words "and June 30, 1969," and inserting in lieu thereof "June 30, 1969, June 30, 1970, and June 30, 1971,";

(4) by amending the first sentence of redesignated subsection (n) to read as follows: "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.".

Sec. 106. Section 6 (e) of the Federal Water Pollution Control Act (33 U.S.C. 466c–1) is amended as follows:

(1) Paragraph (1) is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "five succeeding fiscal years,".

(2) Paragraph (2) is amended by striking out "two succeeding fiscal years," and inserting in lieu thereof "four succeeding fiscal years,".

(3) Paragraph (3) is amended by striking out "two succeeding fiscal years," and inserting in lieu thereof "four succeeding fiscal years,".

Sec. 107. Redesignated section 24 of the Federal Water Pollution Control Act, as amended, is amended by deleting the following: "the Oil Pollution Act, 1924, or".

Sec. 108. The Oil Pollution Act, 1924 (43 Stat. 604), as amended *(80 Stat. 1246–1252), is hereby repealed.*

Sec. 109. The Secretary of the Interior shall conduct a full and complete investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law. The results of such investigation and study shall be reported to Congress no later than December 31, 1970, together with the recommendations of the Secretary for financing the

[p. 24]

programs for preventing, controlling, and abating water pollution for the fiscal years beginning after fiscal year 1971, including any necessary legislation.

Sec. 110. (a) The first sentence of section 2 of the Federal Water Pollution Control Act (33 U.S.C. 466–1) is amended by striking out "Federal Water Pollution Control Administration" and inserting in lieu thereof "Federal Water Quality Administration".

(b) Any other law, reorganization plan, regulation, map, document, record, or other paper of the United States in which the Federal Water Pollution Control Administration is referred to shall be held to refer to the Federal Water Quality Administration.

Sec. 111. Section 8 (c) of the Federal Water Pollution Control Act is amended in the fourth sentence by inserting after "because of lack

of funds" the following: "including States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of this subsection".

Sec. 112. Section 10 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end of subsection (c) (3) the following new sentence: "In establishing such standards the Secretary, the hearing board, or the appropriate State authority shall take into consideration their use and value for navigation."

TITLE II—ENVIRONMENTAL QUALITY

SHORT TITLE

Sec. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

FINDINGS, DECLARATIONS, AND PURPOSES

Sec. 202. (a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

OFFICE OF ENVIRONMENTAL QUALITY

Sec. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this title and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect,

and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government.

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

[p. 26]

REPORT

Sec. 204. Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

AUTHORIZATION

Sec. 205. There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190.

JOHN A. BLATNIK,
ROBT. E. JONES,
JIM WRIGHT,
GEORGE H. FALLON,
WILLIAM C. CRAMER,
WM. HARSHA,
JAMES R. GROVER, Jr.,
Managers on the Part of the House.

EDMUND S. MUSKIE,
JENNINGS RANDOLPH,
BIRCH BAYH,
JOSEPH M. MONTOYA,
J. CALEB BOGGS,
JOHN SHERMAN COOPER,
HOWARD BAKER,
Managers on the Part of the Senate.

[p. 27]

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

CONTROL OF POLLUTION BY OIL

House bill

Section 2 of the House bill adds seven new sections to the Federal Water Pollution Control Act. The proposed new section 17 deals with control of pollution by oil and other matter.

Section 17(a) would define various terms used in this new section.

Paragraph (1) would define the term "oil" to include fuel oil, sludge, and oil refuse, but to exclude oil mixed with dredged spoil.

Paragraph (2) would define the term "matter" to include any substance which, when discharged in substantial quantities, presents, in the judgment of the Secretary of the Interior, an imminent and substantial hazard to the public health or welfare. The definition specifically excludes from this term oil, dredged spoil, and sanitary wastes, and certain material now covered by the Atomic Energy Act of 1954. Under this definition, the Secretary would be expected to publish a list from time to time of the types of substances included in this definition in order to inform the public in accordance with established administrative procedures.

Paragraph (3) defines the term "discharge."

Paragraph (4) defines the term "remove or removal" to mean the taking of reasonable and appropriate measures to mitigate the potential damage that a discharge of oil or matter might have on the public health or welfare including fish, shellfish, wildlife, and private and public beaches and shorelines.

Paragraphs (5) and (6) define the term "vessel" and "public vessel."

Paragraph (7) defines the term "United States."
Paragraph (8) defines the term "owner or operator."
Paragraph (9) defines the term "person."

[p. 28]

Paragraph (10) defines the term "contiguous zone" which means the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Section 17(b) would require that any individual in charge of a vessel, other than a public vessel or an offshore or onshore facility or a Federal or State facility, at the time of a discharge of oil in substantial quantities into the navigable waters of the United States or into the waters of the contiguous zone must immediately notify either the Secretary of the Interior or the Coast Guard as soon as he has knowledge of the discharge.

This section would also provide a criminal penalty for any individual in charge of such vessel or facility who fails to notify the Secretary or the Coast Guard of a discharge. The term "individual in charge" is deliberately designed to cover only supervisory personnel who have the responsibility for the particular vessel or facility and not to include other employees.

Section 17(c)(1) would prohibit the discharge of oil or matter in substantial quantities from any vessel into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, if such oil threatens to pollute or contribute to the pollution of the territorial sea of the United States, and subjects violators to the penalties in section 17(c)(2). The section excepts from this prohibition various circumstances such as acts of war or sabotage or acts of God, or unavoidable accidents, collisions, or strandings, or discharges permitted under article IV of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil.

Section 17(c)(2) would provide a civil penalty against the owner or operator of a vessel, except a public vessel, and against the vessel of up to $10,000 where there is a willful or negligent discharge of oil or matter in substantial quantities from such vessel. No penalty can be assessed unless the owner or operator or vessel is given notice and an opportunity for a hearing. Each violation is a separate offense. The penalties will be assessed by the Coast Guard. In determining the amount of the penalty or in compromising the penalty, the Coast Guard must take into consideration the size of the business, the ability of the owner or operator to continue in business, and the gravity of the violation. Provision is made for withholding clearance of the vessel until the penalty is paid and for the filing of bonds or

other sureties. The penalty will constitute a lien on the vessel which may be recovered in an action in rem.

Section 17(d)(1) would require that the United States remove or arrange for the removal of any oil or matter discharged into any waters, shorelines, or beaches, when in the judgment of the Secretary of the Interior, such discharged oil or matter presents an actual or threatened pollution hazard without regard to any question of fault. Under this section, the United States would only exercise this authority if the United States determines that the owner or operator or a vessel or facility has not made adequate arrangements for removal of the oil or matter as required by this legislation.

Section 17(d)(2) would authorize the United States, in the case of a marine disaster within the navigable waters of the United States which has created a substantial threat of a pollution hazard because of an actual or imminent discharge of oil or matter from the vessel,

[p. 29]

to coordinate and direct public and private efforts in the removal or alleviation of the threat, and to remove summarily and if necessary destroy the vessel by whatever means are available. The expense of removing the vessel shall be charged against the vessel's cargo and the owner or operator where it is shown that negligent operation of the vessel caused or contributed to the marine disaster. If the owner or operator fails to reimburse the United States of such expense within a specified time, the United States may sell the vessel or its cargo, and deposit the proceeds in the revolving fund established by this section.

Section 17(e)(1) would require that the owner or operator of a vessel who willfully or negligently discharges or permits or causes or contributes to the discharge of oil or matter into the navigable waters of the United States or adjoining shorelines or beaches, or into the waters of the contiguous zone, immediately remove the discharged oil or matter in accordance with the regulations prescribed by this section. In any case where the United States removes the oil or matter, the vessel and the owner or operator shall be liable to the United States for the cost thereof. The liability to the United States, however, with respect to each offending vessel and the owner or operator of each offending vessel shall not exceed $10 million or $100 per gross registered ton, whichever is the lesser amount. This limitation on liability is intended to be the only limitation on liability for discharge of oil or matter under this section, notwithstanding any other provisions of law. This section would provide for the withholding of clearance of a vessel until these costs are paid and for posting of bonds or other sureties. It also provides for the establishment of a

maritime lien on the vessel which may be recovered in an action in rem.

This section would also authorize the United States to bring an action against the owner or operator in any court of competent jurisdiction to recover such costs. The United States shall also have a cause of action against any other owner or operator or vessel whose willful act or negligence was found to cause or contribute to the discharge of the oil where there has been a collision or other casualty.

Section 17(e)(2) would provide that, in case of any action instituted by the United States to recover its cost of cleanup and certain penalties under this section, the evidence of a discharge of oil or matter shall constitute a prima facie case of liability to the United States on the part of the owner or operator of the vessel or the person owning or operating an onshore or offshore facility. The burden of rebutting such prima facie case would be on the owner or operator or person as appropriate. This burden, however, shall not affect any rights which such owner or operator or person may have against other vessels or facilities or owners or operators or persons whose willful act or negligence may in some way have caused or contributed to the discharge.

Section 17(f)(1) would require that any person who owns or operates an onshore facility other than a Federal- or State-owned facility and who willfully or negligently discharges or permits the discharge of oil or matter into any waters must immediately remove the oil or matter in accordance with the regulations prescribed under this section.

Section 17(f)(2) would require that any person who owns or operates an offshore facility other than a Federal or State facility which is

[p. 30]

located within the seaward boundaries of a State as defined in the Submarginal Lands Act of 1953, and who willfully or negligently discharges or permits the discharge of oil or matter from such facility into any waters or shorelines or beaches, must immediately remove the oil or matter under the regulations prescribed under this section.

Section 17(f)(3) would provide that if the United States removes oil or matter discharged from any onshore or offshore facility just mentioned, the person who owns or operates the facility shall be liable to the United States for the cost incurred therein provided that such liability shall not exceed $8 million. The Secretary shall establish by regulation, in consultation with the Secretary of Commerce and the Small Business Administration, reasonable and equitable classifications of onshore facilities and activities and apply with respect to such classifications differing limits of liability which may be less

than such $8 million limitation and none of which shall be in excess of $8 million. The classifications would take into account the types of businesses and other facilities affected. The provisions of section 17(f)(3) shall not apply to any onshore facility until it comes within the classification established by the Secretary. The Secretary's classification, however, shall not be established until the expiration of at least 60 days after notification to the Congress of such intended classification.

Section 17(f)(5) would provide that the provisions in section 17(f) relative to the imposition of any requirement or liability limitations on onshore or offshore facilities with respect to the discharge of oil or matter into any waters within the jurisdiction of a State shall not be considered as an attempt to preempt the authority of the State or any political subdivision thereof to impose additional requirements on such facilities.

Section 17(g)(1) would require that within 60 days after the enactment of this section the Secretary of the Interior must issue regulations establishing environmental quality criteria relative to methods and procedures of removing discharged oil and matter and that the Coast Guard must by regulations establish procedures, methods, or equipment consistent with such regulations for the removal of such discharged oil or matter. The objective of these regulations would be to insure that the waters, beaches, and shorelines, including the marine environment, will not be damaged through the use of harmful chemicals or other materials. This section would also provide for the issuance, by the Coast Guard of regulations establishing procedures, methods, and equipment to prevent discharges of oil from vessels, within 60 days after enactment. These regulations may be revised from time to time.

Section 17(g)(2) would establish civil penalties for the violation of any regulations issued under subsection 17(g)(1) relative to the removal of discharged oil or matter. Each violation would be a separate offense and the Coast Guard would assess the penalty and other compromise. The penalty shall not be assessed until notice and an opportunity for a hearing have been given. In order to collect the penalty finally, the United States would have to file a civil action in the U.S. district courts which will provide a de novo proceeding.

Section 17(h)(1) of the bill would establish a revolving fund in the Treasury to be administered by the Coast Guard of not to exceed $20 million and authorize appropriations in that amount to the fund

[p. 31]

as well as the depositing of other revenues received by the United States under this section 17 of the act. Sums deposited into the fund

shall be available to reimburse a State or political subdivision thereof that assists in the removal of any discharged oil or matter. The moneys in the fund shall be available until expended.

Section 17(h)(2) would provide for the delegation by the President within 90 days after the enactment of this section of the authority for the United States to remove discharged oil or matter to the Coast Guard or to the Secretaries of Defense or Interior or other Federal agencies in accordance with any national contingency plan or revision thereof which has been approved by the President, including regional contingency plans. Each agency to which this authority is delegated will be able to utilize the personnel, services, and facilities of other Federal and State agencies.

Section 17(h)(3) would authorize the Secretary of the Interior to issue regulations in consultation with the Coast Guard permitting discharges of oil or matter under such conditions as he may prescribe and at time and locations deemed appropriate by him.

Section 17(h)(4) would provide that the provisions prohibiting discharges of oil or matter from vessels and the regulations issued under section 17(g) of this section shall be enforced by the Coast Guard and that the Coast Guard may utilize the services of other Federal and State agencies in carrying out these provisions.

Section 17(h)(5) would authorize the Coast Guard to board and inspect facilities and to make arrests in connection with any violations of this act.

Section 17(h)(6) would provide for the bringing of actions in certain courts where violations have occurred in Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Section 17(i) would provide that the provisions of section 17 shall not affect or modify the obligations of any owner or operator of any vessel or onshore or offshore facility under other provisions of law for damages to public or privately owned property which might occur as a result of a discharge of oil or matter or as a result of actions taken in the removal of such discharges.

Section 17(j) would provide that the provisions of section 17 shall not be construed as authorizing either the Secretary of the Interior or the Coast Guard to regulate the operations or construction of any onshore or offshore facility. This section also would provide that the provisions of section 17 shall not be construed as affecting or modifying any other existing authorities of either Secretary relative to such facilities under this act or any other provision of law.

Section 17(k)(1) would provide that any vessel over 100 gross registered tons which uses any port or place in the United States or the navigable waters of the United States for any purpose must

establish evidence of financial responsibility to meet the maximum potential liability to the United States which the vessel could be subjected to for the willful or negligent discharge of oil or matter under this section. The financial responsibility should be established pursuant to regulations to be prescribed from time to time by the agency head to which the President has delegated this responsibility. Financial responsibility may include insurance policies, bonds, evidence of self-insurance, or evidences of such responsibility that the

[p. 32]

agency head deems appropriate. All bonds filed must be issued by a bonding company authorized to do business in the United States. Provisions of financial responsibility also apply to barges that are equivalent in size to vessels over 100 tons.

Section 17(k)(2) would provide that the financial responsibility provisions of section 17(k)(1) shall become effective 1 year after enactment of this section. The President is required to delegate this responsibility to the appropriate agency head within 60 days after enactment. In addition, the necessary regulations to implement this section must be issued within 6 months after the effective date of the section.

Section 17(k)(3) directs that the Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other Federal agencies such as the Small Business Administration and representatives of various industries such as the merchant marine, oil, and insurance industries and other interested persons conduct a study relative to other measures to provide financial responsibility and limitations of liability with regard to vessels and measures to provide financial responsibility for onshore and offshore facilities, and finally measures relative to the limitations of liability on such facilities in relation to the cost of removing discharged oil or matter and the payment of all damages that may result from the discharge of oil or matter and from the removal of the discharges. The study is to be completed by January 1, 1971, and a report sent to the Congress with appropriate recommendations, including legislative recommendations.

Senate amendment

Section 102 of the Senate amendment would, among other things, add to the Federal Water Pollution Control Act a new section 12 relating to control of oil discharges.

The new section 12 is concerned with the control and cleanup of oil discharges into inland waters of the United States and waters of the U.S. territorial seas, and in the case of vessels, into the waters of the 9-mile zone contiguous to the territorial sea. It does not apply

to discharges from offshore facilities covered by leases and regulations under the Outer Continental Shelf Lands Act, but does not in any way affect claims to persons or agencies damaged by such discharges.

Section 12(a) would define the various terms used in the section.

The definition of "oil" is very broad, and only specifically excludes dredged spoil.

The definition of "discharge" is designed to cover by its broad terms all possible means of fouling the waters with oil.

The definition of a "vessel" is identical to that in section 3, Title 1, United States Code, and would include all vessels, both foreign and domestic.

The definition of the term "public vessel" would cover Federal- and State-owned and operated vessels and vessels owned and operated by a foreign country, except those not engaged in commerce.

The definition of "United States" includes Guam, American Samoa, the Virgin Islands, Puerto Rico, the Canal Zone, and the Trust Territory of the Pacific Islands, as well as all the States and the District of Columbia.

[p. 33]

The definition of "owner and operator" would include individuals or organizations, such as a corporation, association, firm, or partnership, that own, operate, charter by demise, a vessel, or own or operate an onshore or offshore facility.

The definition of a "contiguous zone" is the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone (TIAS 5639).

The definition of "onshore and offshore facilities" distinguishes between drilling and production facilities and other facilities. Drilling and production facilities and related appurtenances, such as pipelines, platforms, barges used for drilling purposes, etc., are those that are used or capable of being used solely for the purpose of exploring for, drilling, or producing oil. The other facilities are those that are used or capable of being used to process, transport, or transfer oil, or to store oil commercially. Neither definition applies to individual homes where oil is stored, or small businesses other than marine facilities which are used or capable of being used to store 500 barrels of oil or less. Few existing or planned service stations have a storage capacity of more than 500 barrels. In either case, the facility could be located either permanently or temporarily on dry land or land under the navigable waters of the United States which includes inland waters and coastal waters out to the 3-mile territorial sea limit.

The definition of an "act of God" means an act occasioned ex-

clusively by violence of nature without the interference of any human action.

Section 12(b)(1) would prohibit all oil discharges into U.S. waterways and the waters of the contiguous zone from any source, except where permitted under a 1954 convention, and where permitted by regulations issued by the President. Such regulations must be consistent with maritime laws and regulations and water quality standards.

Section 12(b)(2) would authorize a civil penalty for knowingly violating the regulations promulgated under the previous section. If payment is not forthcoming administratively, such penalty may be collected in the Federal district court in a de novo proceeding.

Section 12(c) would require any person in charge of a vessel or an offshore or onshore facility at the time of a discharge of oil into the navigable waters of the United States or into the waters of the contiguous zone to notify immediately the United States. This section would also provide a criminal penalty for any person in charge of such vessel or facility who knowingly fails to notify the United States. The term "person in charge" is deliberately designed to cover only supervisory personnel who have the responsibility for the particular vessel or facility and not to include other employees. The purpose of the notice provision is to prevent or mitigate damage and facilitate cleanup. Such notice and information contained therein may not be used in any criminal action under Federal or State laws.

Section 12(d)(1) would direct the President to issue regulations to govern the removal of oil which is discharged, aid in the enforcement of this section, prevent oil pollution, and establish criteria for oil removal contingency plans. The regulations will also cover procedures to review and approve, where appropriate, such plans of owners or operators as well as public agencies.

[p. 34]

Section 12(d)(2) would authorize a civil penalty for violating the above regulations. If payment is not forthcoming administratively, such penalty may be collected in the Federal district court in a de novo proceeding.

Section 12(c) would require that when oil is discharged in violation of section 12(b) the oil must be removed immediately under the above regulations. It would provide, if the discharger fails, or is unable to act to remove the oil, authority for the President may take appropriate measures to remove the oil either directly or by contract. If the discharger acts improperly the President could also act to remove the oil.

Section 12(f) would limit the liability of a vessel owner or operator

for the cost of removal of discharged oil by the United States to up to $125 per gross ton of the vessel, or $14 million, whichever is less. This limitation, however, would not apply if the discharge was the result of a negligence or a willful act on the part of the owner or operator or his agents, employees, etc. In such case, the owner or operator would be liable for all costs of removal borne by the United States. The owner or operator may not be held liable, however, for these costs if he can prove the discharge was caused solely by an act of God or war or negligence of the U.S. Government or any act of a third party.

Section 12(f)(2) would provide that any vessel over 300 gross tons which uses any port or place in the United States or the navigable waters of the United States for any purpose must establish evidence of financial responsibility of $100 per gross ton to meet the maximum potential liability to the United States which the vessel could be subjected to for the discharge of oil under section 12(f)(1). The financial responsibility should be established pursuant to regulations to be prescribed from time to time by the agency head to which the President has delegated this responsibility. Financial responsibility may include insurance policies, bonds, evidence of self-insurance, or evidences of such responsibility that the agency head deems appropriate. All bonds filed must be issued by a bonding company authorized to do business in the United States. Provisions of financial responsibility also apply to barges that are equivalent in size to vessels over 300 tons.

Section 12(g) would require that a person in the United States be designated for service of process in matters arising under section 12.

Section 12(h) would direct that the Secretary of the Treasury withhold clearance of a vessel, other than a public vessel, that is liable for any costs or penalties to the United States under section 12 or has failed to meet the requirements for financial responsibility.

Section 12(i)(1) would limit the liability of an owner or operator of a nondrilling-production facility to the United States for the cost incurred in removing discharged oil to $125 per ton of oil which such facility is capable, while operating at maximum capacity, of either processing, transporting, transferring in any 24-hour period, or storing in its largest unit. The limitation, however, would not apply if the discharge was the result of negligence or a willful act of the owner or operator, his agent, or any employee thereof. Also, the owner or operator would not be liable for such costs if he is able to prove that the discharge was caused solely by an act of God or war, or solely by negligence of the U.S. Government or solely by an act of a third party. In determining the amount of the liability, the owner

or operator would be required to establish conclusively the capacity of the facility.

[p. 35]

Section 12(i)(2) would establish the liability of an owner or operator to the United States for oil discharges from an onshore or offshore drilling-production facility of not to exceed $8 million. This limitation, however, would not apply if the discharge was due to a negligent or willful act on the part of the owner or operator, his agent, or any employee thereof. The owner or operator would not be responsible for costs where he can prove that the discharge was caused solely by an act of God or war or solely by the act of a third party or solely by negligence of the U.S. Government.

Section 12(j) provides that in any instance where the owner or operator removes the discharged oil and he is subsequently able to prove in a suit brought against the United States in the Court of Claims that the discharge was caused solely by an act of a third party or an act of God or war or by negligence on the part of the U.S. Government, the owner or operator is entitled to recover such costs from the fund established under section 12(k). If the discharge was caused solely by an act of a third party, the United States shall be subrogated to any rights that the owner or operator may have against such third party. This section does not apply to cases where liability is established under the Outer Continental Shelf Lands Act. The United States, of course, would have normal rights of appeal.

Section 12(k) would authorize the President to delegate his functions under section 12 to one or more appropriate Federal agencies. It would authorize a revolving fund. The maximum amount in the fund from appropriations would be $50 million.

Section 12(l) would establish that the provisions of section 12 are not intended to affect the rights of an owner or operator or the U.S. Government against third parties who may have caused or contributed to an oil discharge.

Section 12(m) would grant enforcement authority in carrying out provisions of section 12.

Section 12(n) would authorize the United States in cases where the President determines that there is an imminent and substantial threat to the public health or welfare, because of an actual threat or discharge of oil into the navigable waters of the United States from a vessel, to take immediate possession of the vessel and such other action that may be appropriate. Any expenses incurred by the United States could be recovered subject to the same limitations found in sections 12 (f) and (g).

Similarly, the President under the same conditions may require

that the U.S. attorney seek relief to abate any actual or threatened discharge of oil from any onshore or offshore facility.

Section 12(o) would provide jurisdiction in the Federal district courts and in various other district courts relative to Guam, the Virgin Islands, American Samoa, Trust Territory of the Pacific Islands, and the Canal Zone.

Section 12(p) would provide that the provisions of section 12 shall not be construed as affecting or modifying any other existing authorities under the Federal Water Pollution Control Act, as amended, or any other Federal law or any State or local law not in conflict with the provisions of section 12.

Section 12(q) would provide that section 12 will not affect or modify the obligations of any owner or operator for damages to persons or property resulting from the discharge of oil or from the removal of such oil.

[p. 36]

Conference substitute

Section 102 of the conference substitute would add a new section 11 to the Federal Water Pollution Control Act. This proposed new section 11 deals solely with the control of pollution by oil.

Subsection (a) contains definitions. The definitions of "oil", "discharge", "vessel", "public vessel", "United States", "person", and "contiguous zone" are essentially identical with those definitions in the House bill. The definition of the term "owner or operator" would provide in the case of a vessel that it is the person owning, operating, or chartering by demise, and in the case of an onshore or offshore facility, it is the person owning or operating such facility, and in the case of an abandoned offshore facility, it is the person who owned or operated the facility immediately prior to its abandonment.

As a result of this definition, if an offshore facility has been abandoned by its former owner, and thereafter discharges oil in violation of this section, such former owner would be responsible under the provisions of this act for such subsequent discharge. The definition of the term "remove" or "removal" has been clarified to include specifically public or private property, shorelines, and beaches. The definition of "onshore facility" means any facility (including motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land. Thus, it is made clear that tank trucks and railroad tank cars are included in the definition as well as all other facilities such as storage tanks or refineries from which oil could be discharged into the waters in question. The definition would not include, however, facilities which are built upon any submerged lands in the United States.

The definition of "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 public vessel. This would include offshore drilling rigs as well as all other offshore facilities within the navigable waters of the United States which, in the case of the coastal waters would extend to the seaward boundaries of the States within the meaning of the Submerged Lands Act. The term "act of God" is defined to mean an act occasioned by an unanticipated grave natural disaster. This definition varies from that of the Senate definition and, under this definition, only those acts about which the owner could have had no foreknowledge, could have made no plans to avoid, or could not predict would be included. Thus, grave natural disasters which could not be anticipated in the design, location, or operation of the facility or vessel by reason of historic, geographic, or climatic circumstances or phenomena would be outside the scope of the owner's or operator's responsibility. The definition of the term "barrel" is established at 42 U.S. gallons at 60° F.

Paragraph (1) of subsection (b) is a declaration of policy by Congress that there ought not be discharges of oil into or upon the navigable waters, adjoining shorelines, or the waters of the contiguous zone.

Paragraph (2) of subsection (b) prohibits the discharge of oil in the navigable waters, adjoining shorelines, or the waters of the contiguous zone, in harmful quantities as determined by the President under paragraph (3) with two exceptions: (A) 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 at times and locations

[p. 37]

or under circumstances or conditions which the President by regulations determines not to be harmful. The President's regulations are required to be consistent with maritime safety, marine navigation laws and regulations, and applicable water quality standards.

Paragraph (3) of subsection (b) requires the President, by regulations to be issued as soon as possible, to determine for the purposes of this section those quantities of oil the discharge of which will be harmful to the public health or welfare of the United States, including fish, shellfish, wildlife, and public and private property, shorelines, and beaches with the exception that, in the case of oil discharged in the contiguous zone, only those discharges which threaten the fishery resources of the zone or threaten to pollute or contribute to the pollution of the territory or territorial sea of the United States may be determined to be harmful.

Paragraph (4) requires anyone in charge of a vessel or of an onshore or offshore facility, as soon as he has knowledge of any discharge of oil from that vessel or facility in violation of this section, to immediately notify the appropriate U.S. agency. Failure to do so subjects such person to a fine of not more than $10,000 or imprisonment for not more than a year, or both. This notification, however, is not to be used against any such person in any criminal case other than one for perjury or giving a false statement.

Paragraph (5) of this subsection imposes a civil penalty on the owner or operator of a vessel or onshore or offshore facility from which oil is knowingly discharged in violation of this section. This penalty is not to exceed $10,000 and is not to be assessed unless the owner or operator charged has been given notice and opportunity for hearing. Each violation is a separate offense, and the civil penalty may be compromised by the Secretary. The Secretary of the Treasury is required to withhold clearance from port of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted upon filing of a bond or other satisfactory surety.

Paragraph (1) of subsection (c) authorizes the President to act to remove or arrange for the removal of any oil discharged into the navigable waters, adjoining shorelines, or the waters of the contiguous zone. If he determines the removal will be properly done by the owner or operator of the vessel or facility from which the discharge occurs, he may permit them to do so. The conferees wish to make it clear that the basic responsibility for necessary cleaning up in these situations is placed upon the President. This is not to be construed to inhibit or prevent any owner or operator from undertaking whatever action is necessary to contain or remove an oil discharge.

Paragraph (2) of subsection (c) would require the President, within 60 days, to prepare and publish a National Contingency Plan for the removal of oil. The Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil discharges, including containment, dispersal, and removal of oil. The Plan is to include (A) assignment of duties and responsibilities, (B) identification, procurement, maintenance, and storage of equipment and supplies, (C) establishment of a strike force and emergency task forces, (D) a system of surveillance and notice, (E) establishment of a national center to coordinate and direct operations, (F) procedures and techniques to be employed in identifying, containing, dispersing and removing oil, and (G) a schedule identifying dispersants and other

chemicals that may be used in carrying out the plan, the waters in which they may be used, and quantities which may be safely used. In the case of a dispersant, chemical or waters not specifically identified in the schedule, the President or his delegate may on a case-by-case basis, identify the dispersant or chemicals which may be used, the waters in which they may be used, and the quantities which may safely be used. The plan may be revised from time to time. Once the plan is published, however, removal of oil and actions to minimize damage therefrom shall, to the greatest extent possible, be in accordance with the plan.

The President is given general authority by subsection (l) of this section to delegate his responsibilities under this section. It is the hope of the conferees that with respect to the provisions of subsection (c)(2) (C) and (D) such responsibilities will be delegated to the Coast Guard and with respect to subsection (c)(2)(G) such responsibilities will be delegated to the Secretary of the Interior.

Subsection (d) provides authority for the United States to remove, and if necessary, to destroy vessels in cases where they pose a substantial threat of a pollution hazard through the discharge of oil. This is almost identical to the equivalent provision in the House bill with the exception that in lieu of the House provision making the expense of removal a charge against the vessel, its cargo, and owner and permitting the sale thereof, there has been substituted a provision from the Senate amendment which states that the expense incurred under this subsection will be deemed to be a cost incurred by the United States in the removal of oil for the purposes of liability under subsection (f) of this section.

Subsection (e) authorizes the President when there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil from an onshore or offshore facility to require the U.S. attorney for the district where the threat occurs to secure such relief as may be necessary to abate the threat, and the district courts of the United States are given jurisdiction to grant such relief as the public interest and equity may require.

Subsection (f) establishes the liability of owners and operators of vessels and on or offshore facilities for cleanup costs.

Paragraph (1) of subsection (f) provides that the owner or operator of a vessel from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States for actual costs incurred under subsection (c) for removal of that oil with a limit of liability of not to exceed $100 per gross ton of the vessel or $14 million, whichever is lesser. The owner or operator will have no liability if he 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, or (D) an act or omission of a third party whether or not negligent, or any combination of the foregoing clauses. Such owner or operator shall be liable without limitation if the United States can show that the discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner. These removal costs are to be a maritime lien on the vessel recoverable in an action in rem against the vessel and in addition the United States may bring an action against the owner or operator for these costs. The inclusion of specific language relating to the maritime lien and actions against the owner or operator are for the purposes of clarification only.

[p. 39]

Paragraph (2) of subsection (f) provides that the owner or operator of an onshore facility is liable for actual costs for removal of oil discharged from that facility in violation of subsection (b)(2) of this section in an amount not to exceed $8 million. If such owner or operator can prove 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, or (D) an act or omission of the third party whether or not negligent or any combination thereof, then such owner or operator shall have no liability. If the United States can show the discharge was a result of willful negligence or misconduct within the privity and knowledge of the owner, then the owner is liable for the full cost without limitation. The United States is authorized to bring an action against the owner or operator in any court of competent jurisdiction to recover these costs. Additionally the Secretary is authorized by regulation, after he has consulted with the Secretary of Commerce and the Small Business Administration, to establish classifications of those onshore facilities having a total fixed storage capacity of a thousand barrels or less which he determines do not present a substantial risk and apply with respect to these classifications differing limits of liability which may be less than the $8 million limit established statutorily by this paragraph.

Paragraph (3) of subsection (f) provides that the owner or operator of an offshore facility from which oil is discharged in violation of subsection (b)(2) of this section shall be liable to the United States for removal costs in an amount not to exceed $8 million. If such owner or operator can prove that the discharge is caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States, or (D) an act or omission of a third party whether or not negligent, or any combination thereof, then such owner or operator will have no liability. If the United States can show that the discharge was the result of willful negligence or misconduct within

the privity and knowledge of the owner then he is liable for the full amount. The United States is authorized to bring an action against the owner or operator in a court of competent jurisdiction to recover these costs.

Subsection (g) of this section provides that in any case where an owner or operator of a vessel or of an onshore or offshore facility from which oil is discharged in violation of this section proves that the discharge is caused solely by an act or omission of a third party or solely by such act or omission in combination with an act of God, an act of war, or negligence on the part of the United States, then such third party shall be liable to the United States for the actual costs of removing the oil unless that third party can in turn prove that the discharge was caused solely by an act of God, an act of war, negligence on the part of the United States or the act or omission of another party or any combination thereof. If the third party is the owner or operator of a vessel which caused the discharge, then that third party's liability is limited to $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of the third party is limited by that which would have been applicable to the owner or operator of the vessel or facility from which the discharge actually occurred if such owner or operator would have been liable. If the United States proves the discharge of oil was the result of willful negligence or misconduct within the privity and knowledge of the third party, then such third party shall be liable for the full

[p. 40]

amount of the removal costs. The United States is authorized to bring a suit in a court of competent jurisdiction to recover these removal costs.

Subsection (h) provides that the liability established by this section will not affect any rights which the owner or operator of the vessel or onshore or offshore facility may have against third parties whose acts in any way may have caused or contributed to the discharge of oil, or which the United States may have against any such party.

Paragraph (1) of subsection (i) authorizes an owner or operator from whose vessel or facility oil has been discharged and who voluntarily removes the oil in accordance with regulations to recover reasonable costs incurred in that removal in a suit against the United States in the court of claims if such owner or operator 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, or (D) an act or omission of a third party without regard to its negligence, or any combination of the foregoing.

Paragraph (2) of subsection (i) provides that this subsection will not apply where liability is established by regulations adopted under authority of the Outer Continental Shelf Lands Act.

Paragraph (3) of subsection (i) authorizes the payment from the revolving fund established in subsection (k) of this section of any judgment entered against the United States under this subsection.

Paragraph (1) of subsection (j) requires the President, as soon as practicable and consistent with the national contingency plan, and maritime safety, and marine and navigation laws, to establish methods and procedures for removal of discharged oil, to establish criteria for the development and implementation of local and regional oil removal contingency plans, to establish procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and onshore and offshore facilities, and regulations governing the inspection of vessels carrying oil as cargo, including inspecting such cargoes all for the purpose of reducing the likelihood of discharges of oil from such vessels. This language is in very general terms, and it is the understanding of all of the conferees that under this authority the President would be authorized by regulation to require vessels and facilities to carry on board or otherwise have available materials and equipment determined necessary to prevent and to clean up oil discharges.

Paragraph (2) of subsection (j) provides for a civil penalty of up to $5,000 for each violation of the regulations issued under this subsection. Authority is granted the President to compromise these penalties.

Subsection (k) authorizes the establishment of a revolving fund in the Treasury of not to exceed $35 million to carry out the provisions of subsections (c) (relating to the removal of oil which has been discharged), (i) (relating to costs payable by the United States for removal by volunteers), and (l) (relating to the administration of the section generally), as well as section 12 of this act (relating to the removal of hazardous polluting substances). Any other funds received by the United States under this section are to be deposited in this fund. Moneys in the fund are to be available until expended.

Subsection (l) is general authority to the President to delegate the administration of this section to the heads of those departments, agencies, and instrumentalities which he determines to be appropriate. Any department, agency, or instrumentality in which functions

[p. 41]

are vested is to avoid duplication of effort and to utilize personnel, services, and facilities of other departments, agencies, and instrumentalities wherever appropriate.

Subsection (m) provides that any person authorized by the President to enforce this section may, except as to public vessels, board and inspect vessels, arrest violators, and execute warrants or other process issued by an officer or court of competent jurisdiction. It is the hope of the conferees that the responsibility for this subsection will be vested in the Coast Guard.

Subsection (n) vests the district courts of the United States with jurisdiction for actions brought under this section other than those specifically authorized in the Court of Claims by subsection (i)(1). It further designates in the case of territories and possessions which of the district courts such actions shall be brought in.

Paragraph (1) of subsection (o) provides that nothing in this section will affect or modify the obligations of an owner or operator of a vessel or facility from which oil is discharged to any other person or agency under any provision of law for damages resulting from that discharge or the removal of that oil.

Paragraph (2) of subsection (o) disclaims any intention of preempting any State or political subdivision from imposing any requirement or liability with respect to the discharge of oil into waters in that State. Thus, any State would be free to provide requirements and penalties similar to those imposed by this section or additional requirements and penalties. These, however, would be separate and independent from those imposed by this section and would be enforced by the States through its courts.

Paragraph (3) of subsection (o) insures that nothing in this section is to 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.

Subsection (p) is essentially the same as the equivalent provisions of the House bill relating to the financial responsibility of vessels except that where the House bill required vessels over 100 gross registered tons to establish evidence of financial responsibility, this provision requires vessels over 300 gross tons to do so and the limits of liability are specified to be the same as those contained in subsection (f)(1), that is, $100 a gross ton or $14 million, whichever is lesser. Additionally, this provision spells out in paragraph (3) that claims for costs may be brought directly against the insurer providing the evidence of financial responsibility and in such case the insurer shall be entitled to all of the rights and defenses available to the owner or operator. It is the hope of the conferees that responsibility for administering paragraph (1) of this subsection will be vested in the Federal Maritime Commission. It is also the hope of the con-

ferees that the marine insurance industry will modernize its coverage for protection of third parties without regard to the nature of the conduct of the insured.

Paragraph (4) of subsection (p) is essentially the same as the provisions of the House bill relating to a study of the need for other measures to provide financial responsibility and to limit liability on vessels and facilities subject to the provisions of this section. This report is to be submitted to Congress by January 1, 1971.

[p. 42]

CONTROL OF HAZARDOUS POLLUTING SUBSTANCES

House bill

The House bill in the proposed new section 17 to the Federal Water Pollution Control Act, relating to pollution resulting from oil spills, provides that "matter" which is a defined term the substantial discharge of which presents an imminent and substantial hazard to public health or welfare can be cleaned up and liability can be assessed in the same manner and to the same extent and with the same penalties as are provided in the case of oil spills.

Senate amendment

The Senate amendment proposes a new section 13 to be added to the Federal Water Pollution Control Act providing with respect to controlling hazardous polluting substances a separate and distinct means for dealing with them.

This new section 13 is concerned with the identification, control, and cleanup of hazardous substances, other than oil.

Section 13(a)–(f) would direct the President to develop, promulgate, and revise regulations designating various hazardous substances, other than oil, which when discharged in any quantity into the navigable waters of the United States, or the waters of the contiguous zone, would present an imminent and substantial danger to the public health or welfare and establishing where appropriate, criteria for the removal of such substances. The development of these regulations must include consultation with various public and private agencies and organizations and individuals interested in such regulations. Where appropriate, public hearings could be held in developing the regulations. Consideration must also be given to the latest available scientific data, technical feasibility of the regulations, and experience gained under the Federal Water Pollution Control Act. Regulations would be published in the Federal Register as proposed regulations and interested persons would be given at least 30 days to comment thereon. At the end of that time the regulations may be finally promulgated unless an interested person has filed ob-

jections stating grounds therefor and requesting a public hearing on such objections. After the notice period, the objections must be published in the Federal Register by notice and a public hearing held as soon as possible thereafter. On completion of the hearing, the President must make findings of fact and he may promulgate such modification of regulations as appropriate or take other action as he deems appropriate. All findings must be made public.

Any person aggrieved by such regulation for which a hearing was held may within 60 days file a petition in the U.S. Court of Appeals for the District of Columbia requesting that the regulation be modified or set aside. The court must hear the appeal on the record made before the President and the substantial evidence rule shall apply to the findings of the President. The court may affirm, vacate, or remand the proceedings. The review afforded by this procedure in the Court of Appeals shall be exclusive as to the person seeking the petition and such person cannot raise the validity of the regulation in any subsequent procedure relating to the enforcement thereof. The filing of a petition does not stay the regulations unless the court so orders

[p. 43]

after finding that there is substantial likelihood that the President's findings are erroneous and that irreparable injury will result if the stay is not granted.

Section 13(g) would require that notice be given immediately to the United States upon the discharge of any hazardous substance from an onshore or offshore facility or a vessel in order to permit immediate action to remove or otherwise mitigate damage from the discharged substance. Criminal penalties apply for anyone who knowingly fails to so notify. Such notice and information contained therein may not be used in any criminal action under Federal or State law.

Section 13(h) would direct that the United States remove any discharged substance unless appropriate action is taken immediately by the discharger to remove the substance.

Section 13(i) would provide civil penalties for violation of regulation promulgated under section 13(a). If payment is not forthcoming administratively such penalties may be collected in Federal court in a de novo proceeding.

Section 13(j) would provide that section 13 will not affect or modify the obligations of an owner or operator for damages to anyone for damage to persons or property resulting from the discharge of a hazardous substance or from the removal of such substance.

Section 13(k) would provide enforcement authority in carrying out the provisions of section 13.

Section 13(l) would provide jurisdiction in the Federal district courts in case of any actions arising under section 13.

Section 13(m) would define various terms used in section 13 and make applicable the definitions of section 12(a) as to the terms, oil, discharge, vessels, public vessel, United States, person, contiguous zone, and act of God.

Section 13(n) would require that the President submit a report to the Congress by November 1, 1970, on the need for, and desirability of, legislation imposing liability for the cost of removal of hazardous substances. The report would be based on an accelerated study on the methods and measures for controlling substances, the most appropriate measures for enforcement, and the methods of imposing sanctions where removal is impossible or impractical.

Section 13(o) would authorize the President to delegate his responsibility to other Federal agencies. In addition it would make available for the purpose of section 13 the fund established under section 12 of the Act.

Conference substitute

The conference substitute proposes to add a new section 12 to the Federal Water Pollution Control Act dealing with control of hazardous polluting substances. In general, this section is more nearly comparable to that proposed by the Senate amendment than to the House bill.

Section 12(a) would be the same as section 13(a) of the Senate amendment except that the President would be authorized to establish recommended methods and means for removing hazardous substances instead of establishing criteria therefor as provided in the Senate amendment.

Section 12(b) would apply the Administrative Procedure Act provisions as now contained in title V (other than the form of administrative proceeding provided in section 553(c)) in lieu of the detailed administrative proceedings and judicial review contained in the comparable Senate provisions.

[p. 44]

Section 12(c) is essentially the same as section 13(g) of the Senate amendment except that the criminal penalty for failure to notify has been removed. This section does not contain the civil penalty provided in section 13(i) of the Senate amendment.

This section does not contain the authorities granted the President with respect to enforcement contained in sections 13(k) and 13(l) of the Senate amendment.

Section 12(g), relating to reports, with minor changes is essentially the same as section 13(n) of the Senate amendment.

Section 12(h) is essentially the same as section 13(o) of the Senate amendment.

CONTROL OF SEWAGE FROM VESSELS

House bill

Section 18 would provide for the control of sewage from vessels including foreign vessels using our waterways and commercial and recreational vessels.

Section 18(a) would define various terms used in the new section.

Section 18(b) would direct the Secretary of the Interior to promulgate Federal standards of performance for marine sanitation devices to be installed and operated on board vessels subject to this new section. The term "marine sanitation device" is defined to include equipment on board the vessel which is designed to receive, retain, treat, or discharge sewage. The standards must be consistent with maritime safety and other marine laws and regulations. In addition, the Coast Guard must also promulgate regulations governing the design, construction, installation, and operation of these devices on board these vessels.

Section 18(c) would provide that the initial standards and regulations will be effective for new vessels—that is, vessels constructed after such standards and regulations are promulgated—2 years after promulgation, but not earlier than December 31, 1971, and for existing vessels—that is, vessels constructed prior to promulgation of the standards and regulations—5 years after promulgation. Both Interior and Coast Guard, in issuing standards and regulations, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels. Both may exempt such vessels from the applicability of the standards and regulations for such periods of time as may be necessary and upon application for individual vessels. This waiver authority could be accomplished at the time the standards and regulations are promulgated.

Section 18(d) would provide that this new section and the standards and regulations issued thereunder would apply to vessels owned and operated by the United States unless the Secretary of Defense finds that such compliance would be contrary to the interests of national security. The regulations required by this section and the certifications required under section 18(g) of this section shall be promulgated and issued by the Secretary of Defense rather than by the Coast Guard.

Section 18(e) would require that before the standards and regulations are promulgated, the Secretary of the Interior and the Coast Guard will consult with other interested Federal agencies, the States, and appropriate representatives of the various industries affected and

shall comply with the rulemaking provisions of title 5 of the United States Code, formerly known as the Administrative Procedures Act.

[p. 45]

Section 18(f) would provide that once the initial standards and regulations are effective a State or a political subdivision thereof may not adopt or enforce any law or regulation governing the design, manufacture, or installation of any marine sanitation device on board any vessel subject to the Federal standards and regulations. The section would not, however, affect the State's authority to prohibit completely all sewage discharges from vessels in particular intrastate waters of the State, regardless of whether the sewage is treated or not. In such cases however, the State must also prohibit waste discharges from all other sources.

Section 18(g) would prohibit the sale or delivery into interstate commerce or importation into the United States of any marine sanitation device unless such device is in all material respects substantially the same as the test device certified by the Coast Guard under this section. The subsection would require the Coast Guard to certify upon application of each manufacturer of these devices if he finds that they meet the standards and regulations promulgated under this section. The Coast Guard would require the manufacturer to test the device in accordance with procedures set forth by the Secretary of the Interior as to performance or he shall test it himself. It would be up to the Coast Guard to determine if the results of the test are in accordance with the appropriate performance standards. If the Coast Guard finds that the device is satisfactory from the standpoint of safety and other requirements of maritime law or regulation, and after considering the design, installation, operation, and material, and other appropriate factors, he would certify it. Every manufacturer would be required to maintain records and provide such information as the Secretary or the Coast Guard may need to enable them to determine whether the manufacturer has acted or is acting in compliance with this section and regulations thereunder.

Section 18(h) would provide that after the effective date of standards and regulations promulgated by Interior and Coast Guard it shall be unlawful (1) to manufacture for sale vessels subject to the standards and regulations without a certified device; (2) for a vessel to operate on the navigable waters of the United States subject to the standards and regulations, if it is not equipped with an operable marine sanitation device; (3) to refuse Federal authorities access to records; and (4) to move or render inoperative, wrongfully, a certified device installed prior to sale or delivery to the ultimate purchaser.

Section 18(i) would authorize the district courts of the United States to restrain violations of subsections (h) (1) through (3) of this section.

Section 18(j) would establish civil penalties for violation of section 18(h) to be assessed by the Coast Guard. The maximum penalty against the manufacturer and dealer is $5,000 and against other persons violating 18(h) (4) $2,000. The penalty cannot be assessed until there is notice and an opportunity for a hearing.

Sections 18 (k) and (l) would provide that the enforcement of this new section would be carried out by the Coast Guard and that the Coast Guard may utilize the services, personnel, and facilities of the Secretary of the Interior and other Federal agencies where appropriate.

Section 18(m) would provide jurisdiction in the courts of Guam and the Virgin Islands in the case of actions arising under this section.

[p. 46]

In the case of American Samoa and the Trust Territory of the Pacific Islands, these actions may be brought in the district court for the district of Hawaii.

Senate amendment

The new section 11 is concerned with the control of the discharge of sewage from vessels into the navigable waters of the United States.

Section 11(a) would define the various terms used in the section.

Section 11(b) would direct the Secretary of the Interior within two years after the effective date of this section to promulgate standards of performance for marine sanitation devices to prevent the discharge of untreated or inadequately treated sewage from all new and existing vessels equipped with installed toilet facilities. These standards must be consistent with maritime safety and other marine laws and regulations. The section would also direct the Coast Guard to promulgate regulations which govern the design, construction, installation, and operation of marine sanitation devices installed on board vessels subject to this section. The regulations must be consistent with the standards. This section would also exempt from such standards and regulations vessels equipped with a device installed pursuant to State requirements prior to the promulgation of such standards and regulations, until the device is replaced or unless it does not remain in compliance with the applicable State law.

Section 11(c) would provide that standards and regulations for new vessels become effective two years after promulgation. Standards and regulations for existing vessels would become effective five years after promulgation. Revisions thereof would be effective on date specified in such revisions. The Coast Guard may waive application

of standards and regulations to various classes, types, and sizes of vessels for such periods as may be necessary and, upon application, waivers may be granted for individual vessels.

Section 11(d) would require compliance with Federal standards and regulations by public vessels of the United States, except where compliance conflicts with national security, as determined by the Secretary of Defense.

Section 11(e) would require that the Secretary and the Coast Guard consult with Federal and State agencies and other interested parties and comply with the provisions of section 553 of the United States Code (the Administrative Procedure Act) prior to promulgation of standards and regulations.

Section 11(f) would preempt State or local laws or regulations relative to the design, manufacture, installation, or use of marine sanitation devices on new or existing vessels for which such devices are required under section 11(c) after the Federal standards and regulations applicable to such vessels are effective. Such State laws and regulations could still continue in effect in the case of other vessels. Also, a State may prohibit all sewage discharges from all vessels into certain waters within its boundaries in order to implement applicable water quality standards.

Section 11(g) would prohibit the sale or delivery into commerce of a device, the prototype of which is not certified; establish procedures for certification; and provide for the maintenance of records.

[p. 47]

Section 11(h) would provide that, after the effective date of standards and regulations, it shall be unlawful:

To manufacture, or distribute for sale, vessels, subject to Federal standards and regulations without a certified device;

To, wrongfully, remove or render inoperative a certified marine sanitation device installed prior to sale or delivery to the ultimate purchaser;

To refuse Federal authorities access to records; and

To operate a vessel subject to the standards and regulations if it is not equipped with an operable device.

Section 11(i) would give jurisdiction to the courts to restrain those who under section 11(h), unlawfully manufacture or distribute for sale vessels without a device, remove or render inoperative a device, or refuse access to records.

Section 11(j) would establish civil penalties in case of violations of section 11(h) to be assessed after notice and hearing by the Coast Guard. Civil penalties not paid after administrative proceedings may be collected by the United States in the Federal district courts in a de novo proceeding.

Section 11(k) would place the responsibility for enforcement in the Coast Guard with assistance by the Secretary of the Interior, other Federal agencies, or the States.

Section 11(l) would authorize the Coast Guard to inspect vessels in U.S. waters and issue and execute warrants.

Section 11(m) would grant jurisdiction to various courts in cases of actions arising under section 11.

Conference substitute

The proposed new section 13 of the Federal Water Pollution Control Act relates to control of sewage from vessels.

Section 13(a) contains the same definitions as section 11 of the Senate amendment with the following changes:

(1) The term "public vessel" is defined to mean 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.

(2) The definition of "manufacturer" is the same as contained in the House bill.

(3) The term "discharge" is defined as including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(4) The term "marine sanitation device" is defined as also including any process to treat sewage.

Section 13(b)(1) relating to the establishment of standards for marine sanitation devices is essentially the same as contained in the House bill. Language is included in the vessel pollution portion of the conference substitute for the purpose of assuring that unreasonable demands are not made on small recreational vessels, but that marine sanitation device performance standards would only be promulgated when our technology permits these standards to be practicable and reasonable, and the degree of treatment will be adequate. The exemption of vessels that do not have installed toilet facilities relieves a burden upon those vessel owners who otherwise could be driven out because of the lack of feasibility of installing toilet facilities and marine sanitation devices on certain types of vessels.

[p. 48]

Section 13(b)(2) provides that 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.

Section 13(c)(1) relating to the effective date of standards is the same as the House provision.

Section 13(c)(2) relating to differentiation and waiver is the same as the House provision with the exception that the Secretary of the department in which the Coast Guard is operating must consult with the Secretary of the Interior in distinguishing among classes, types, and sizes of vessels as well as between new and existing vessels; and, with respect to waiving applicability of standards and regulations as necessary or appropriate for such classes, types, or sizes, it is made clear that existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section are eligible for waiver of such standards.

Section 13(d) relating to federally owned vessels is essentially the same as the comparable provision of the House bill.

Section 13(e) relating to consultation with interested parties is the same as the provisions of the House bill.

Section 13(f) provides that 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 any 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. Upon application by a State and, where the Secretary 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. The conferees expect there to be a wide dissemination of information of any such prohibition.

Sections 13 (g) through (m) relating to prohibitions and their enforcement are essentially the same as the equivalent provisions in the House bill.

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

Conference substitute

The proposed new section 14 is the same as the equivalent provisions in both the House bill and the Senate amendment which are substantially identical.

POLLUTION CONTROL IN THE GREAT LAKES

Conference substitute

The proposed new section 15 is the same as the equivalent pro-

visions in both the House bill and the Senate amendment which are substantially identical.

[p. 49]

TRAINING GRANTS AND CONTRACTS

Conference substitute

Sections 16 through 19 of the conference substitute relating to training grants and contracts are essentially the same as the equivalent provisions contained in the House bill.

ALASKA VILLAGE FACILITIES

House bill

The House bill contains no provision relating to Alaska village safe water facilities.

Senate amendment

Title IV of the Senate amendment adds a new section 23 to the Federal Water Pollution Control Act entitled "Alaska Village Safe Water Facilities Act."

Sections 23 (b) and (c) are findings of fact and a declaration of policy to establish a special emergency program to provide safe water and hygienic sewage disposal facilities in Alaska villages presently without these facilities.

Section 23(d) authorizes the Secretary of the Interior to provide for the installation of whatever safe water and hygienic sewage disposal facilities are necessary to insure that there will be one such facility in each Alaskan village. These facilities are to be available for use by the general public, to be designed to assure year round operation, to provide clean water, shower bath facilities, sewage disposal, and facilities for washing clothes.

The section also provides the means for determining the location of these facilities, prohibits contributions toward the cost of construction from the users of such facilities, provides that local workmen shall be used, provides for local operation, and authorizes $5,000,000 for fiscal year 1970 and such sums as may be necessary thereafter for the next three fiscal years.

In addition, the Secretary is directed to conduct appropriate educational and informational programs to familiarize the residents of each community wherein such a facility is located as to the health advantages of full utilization of that facility. In addition, the Secretary is authorized to make grants for operation and maintenance of these facilities.

The Secretary is required to report to Congress annually on the results of this program. He is also directed to utilize the facilities of

the Department of Health, Education, and Welfare to the fullest extent possible in carrying out the provisions of the section.

Conference substitute

The conference substitute proposes to add a new section 20 to the Federal Water Pollution Control Act entitled "Alaska Village Demonstration Projects".

This section would authorize the Secretary, in agreement with the State of Alaska, to carry out demonstration projects for central community facilities for safe water and the elimination or control of water pollution in native villages of Alaska without these facilities. These projects are to include provisions for safe water supply systems, toilets, bathing and laundering facilities, sewage disposal facilities, and similar facilities of that type. In addition, educational and informational facilities and programs relating to health and hygiene

[p. 50]

are authorized as part of the demonstration projects. The purpose of these demonstration projects is to assist in developing preliminary plans for providing these types of facilities for all native villages in Alaska.

In carrying out this section, the Secretary is to cooperate with the Secretary of Health, Education, and Welfare in order to utilize personnel and facilities of that department to the extent appropriate.

A report to Congress not later than January 31, 1973, is required.

There is authorized to be appropriated not to exceed $1,000,000 to carry out this new section.

It is the understanding of the conferees that these demonstration projects will not extend to the construction of facilities other than those which are centrally located and usable on a community-wide basis. Facilities for individual dwellings are not authorized under this section.

COOPERATION BY FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

House bill

Section 3 of the House amends section 11 of the Federal Water Pollution Control Act to put into statutory terms the provisions of the President's Executive Order 11288 for the prevention, control, and abatement of water pollution by Federal activities, either directly or by contract. This section would require that every Federal agency having jurisdiction over any real property or facility shall take immediate and appropriate steps to insure compliance with applicable Federal, State, and local water quality standards and the purposes of the Federal Water Pollution Control Act in the administration of the

property or facility. This section would recognize, however, that this requirement is subject to the availability of appropriations and the needs of the United States, but it is intended that every effort be made to carry out its directives and to seek the necessary appropriations to do so. In any summary of a conference made pursuant to section 10(d)(4) of the Federal Water Pollution Control Act, the Secretary must also include references to discharges which might cause or contribute to the pollution of any waters from Federal property or facilities and transmit a copy of his summary to the appropriate Federal agency head. Also, notice of any hearing under section 10(f) of the act shall be given to the Federal agency having jurisdiction over the property or facility involved and the finding and recommendations of the hearing board shall include references to the discharges from such Federal facility or property.

Section 11(b) would require that applicants, other than a Federal agency, seeking a Federal license or permit to conduct any activity of any kind or nature which may result in discharges into the navigable waters of the United States must provide the Federal licensing or permitting agency with a certification from the affected State or States or interstate water pollution control agency that there is reasonable assurance, as determined by that agency, that such activity will be conducted in a manner that will not reduce the quality of such waters below applicable Federal or State or local water quality standards. In any instance where the water quality standards have been promulgated by the Secretary of the Interior under section 10(c)(2) of the act or where a State agency or interstate agency lacks authority to provide such a certification, then the certification shall be obtained

[p. 51]

from the Secretary of the Interior. In any case where an activity requires two or more licenses or permits by a single Federal agency or multiple Federal agencies and the applicant receives a certification under this section in connection with any one of those licenses or permits, then any Federal agency considering an application for a subsequent license or permit for that same activity, such Federal agency may accept the first certification as meeting the requirements of this section if, after notice to the affected State or States or interstate agencies or to the Secretary, as appropriate, no written objection is made to the granting of such license or permit without a subsequent certification.

In addition, once a license or permit has been issued it may be suspended if a court of competent jurisdiction subsequently finds that such licensee or permittee is not in compliance with applicable water quality standards.

In any case where the actual construction of a facility for the conduct of any activity has been lawfully commenced prior to the effective date of this legislation, no certification shall be required under section 11(b) for a Federal license or permit issued after the effective date of this legislation to conduct such activity. Any license or permit issued without the certification, however, shall terminate at the expiration of 2 years following the effective date of this legislation unless prior to such termination date the licensee or permittee submits to the Federal licensing or permitting agency a certification as required under section 11(b).

This section prescribes that no Federal permit or license may be granted except in the manner just mentioned without a certification as prescribed by this section.

Senate amendment

Section 103 of the Senate amendment redesignates section 11 of the Federal Water Pollution Control Act as section 16 and substantially revises it.

Section 16(a) is similar to the present section 11 of the Federal Water Pollution Control Act as amended. The new section, however, would require that every Federal agency having jurisdiction over any real property or any facility or activity of any kind shall insure compliance with applicable water quality standards in the administration of the property, facility, or activity consistent with an approved plan for implementation. This section would also authorize appropriations to carry out this requirement.

Section 16(b) would require that when a Federal agency (1) issues a lease to any person for the use of any Federal property or facility or (2) contracts for the operation of such property or facility or (3) contracts for the entire operation of any non-Federal facility, such agency must insure compliance with the applicable water control quality standards and purposes of this Act in administering such lease or contract. When appropriate, a certification obtained under section 16(c) for a Federal license or permit shall be evidence of compliance with the water quality standards.

Section 16(c) applies to applicants for Federal licenses or permits to construct or operate any facility or to conduct any activity which may result in any discharge in the navigable waters of the United States. It does not apply to Federal agencies.

[p. 52]

The section would require that the applicant for such Federal license or permit provide a certification from the State in which the discharge originates to the Federal licensing or permitting agency and notice thereof to the Secretary of the Interior, that there is reasonable

assurance that the facility or activity will comply with applicable water quality standards. In appropriate cases, the certification would be obtained from an interstate water pollution control agency. Where water quality standards for interstate waters have not been approved or promulgated under section 10(c) of the Federal Water Pollution Control Act, as amended, the certification must be obtained from the Secretary of the Interior. The certifying agency has 1 year after receipt of application for certification to notify the applicant of such certification or of intent not to certify. After the Secretary of the Interior determines that the discharge may affect the applicable water quality standards of a State or States other than the certifying State, the Secretary must notify the other States within 60 days after receipt of the notice of an application for a license or permit. If such other States within 30 days after receipt of notification from the Secretary determine that the discharge will adversely affect its standards, they should notify the Secretary and the Secretary has an additional 30 days to review such determination. If upon such review he finds such adverse effect, the Secretary shall require that before the license or permit is issued that appropriate conditions be included to insure compliance with the standards.

No Federal license or permit can be granted without a certification and such conditions as the State, interstate agency, or Secretary may reasonably require. These conditions could include, among other things, provision for suspension or termination of the license or permit for failure to comply with the standards.

If, in the case of discharge affecting States other than the State of origin and where the Secretary requires conditions that are more stringent than those of the State where the discharge originates, the applicant may request a hearing by the Federal licensing or permitting agency and such agency shall make findings on the conditions to be included in a license or permit. Such findings must be public and they shall not require conditions that are less stringent than those of the State where the discharge occurs. The licensing or permitting agency will, of course, provide an opportunity for the affected States and the Secretary to participate in such hearing and to appeal the findings in a Federal court within a reasonable time after the issuance thereof as provided in statute under which the license or permit is issued or under the Administrative Procedure Act.

The Federal licensee or permittee must provide the certifying State or, as appropriate, the interstate agency or the Secretary of notice of any changes in the facility or activity which may affect applicable water quality standards.

A certification for Federal license or permit for a particular facility or activity shall satisfy the requirement of certification for any later

Federal license or permit necessary for such facility for activity unless, after receiving notice of an application for such later Federal license or permit, a State or the Secretary notifies such Federal licensing or permitting agency that there has been a change in the nature of the activity, the design of the facility, the natural characteristics of the

[p. 53]

waters into which the discharge will be made, or in the water quality standards applicable to such waters, and there is no longer reasonable assurance of compliance with water quality standards. In such instances a second certification will be required.

In the case of any Federally licensed or permitted facility or activity which is not required to obtain a Federal operating license or permit, the licensee or permittee must give the certifying State, or interstate agency, or the Secretary an opportunity to review the manner in which the facility or activity will be operated or conducted for the purpose of assuring compliance with water quality standards. This requirement would apply prior to the actual operation of the facility or activity. Upon receipt of notice from the certifying State, the interstate agency or the Secretary, that the operation will not comply with the standards, the Federal agency must suspend the license or permit until notice is received of reasonable assurance of compliance.

If, in any case, a Governor of a State or the Secretary notifies the licensing or permitting agency that the facility or activity has been found by a court to be in violation of the standards, such license or permit may be suspended or terminated, as circumstances require, by the Federal agency.

If actual construction of a facility has been begun under a Federal license or permit prior to the effective date of this section, no certification shall be required for any Federal operating license or permit for such facility issued within 3 years of such date. Any Federal operating license or permit issued during such 3-year period, however, without the benefit of the certification must be terminated after the end of the 3-year period unless, prior to that time, the licensee or permittee obtains a certification. If, in any case where there is a Federal license or permit application pending on the effective date of this section and where such license or permit is issued within 1 year of such date, a certification will not be required for 1 year following the issuance of license or permit. The license or permit, however, will terminate at the end of that year unless certification is obtained.

In the case of any activity which will affect water quality for which there are no applicable standards, no certification will be required. However, a Federal licensing or permitting agency, in such event,

must impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of the Act.

If a State in which a discharge originates or the Secretary notifies a Federal agency that its licensee or permittee has received notice of the adoption of water quality standards applicable to such activity and has failed to comply with the standards, the Federal agency must after a period of time, suspend license or permit until notice is received that there is reasonable assurance of compliance.

Section 16(d) provides that section 16 of the Act is not to be interpreted in any way to affect the authority of any Federal agency pursuant to this Act or any other provision of law relative to compliance with water quality standards. The Secretary of the Interior is also directed to provide technical assistance as may be necessary to carry out the purposes of this Act.

Section 16(e) will authorize Corps of Engineers to permit the use of spoil disposal areas under its jurisdiction by a Federal licensee or permittee and to charge for such use. Moneys received would be deposited to miscellaneous receipts.

[p. 54]

Conference substitute

Section 103 of the conference substitute redesignates existing section 11 of the Federal Water Pollution Control Act as section 21 and revises that section substantially as follows:

Section 21(a) would require each Federal department, agency, and instrumentality (hereafter referred to as a "Federal agency") having jurisdiction over any real property or facility or engaged in any Federal public works activity to insure compliance with applicable water quality standards and the purposes of the Federal Water Pollution Control Act in the administration of that property, facility, or activity, to the extent consistent with the paramount interest of the United States as determined by the President. The jurisdiction of a Federal agency referred to in this provision includes operations of the agencies carried on by lease and by contract and therefore would subject these lease and contract operations to the requirements of this subsection. In his summary of the conference pursuant to section 10(d) (4) of the Act, the Secretary is required to include reference to any discharges alleged to contribute to pollution from any Federal property, facility, or activity and to send a copy of that summary to the head of the Federal agency having jurisdiction thereof. Notice of a hearing pursuant to section 10(f) of the Act involving any pollution alleged to be caused by any such discharges shall also be given the Federal agency having jurisdiction over the property, facility, or activity involved and the hearing board's find-

ings and recommendations shall include references to such discharges to the extent they are contributing to the pollution.

Section 21(b) 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 of the United States 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 a certification is appropriate from such interstate agency rather than from the State of origin. This certification must state that there is reasonable assurance as determined by the certifying State or interstate agency that the activity proposed to be licensed or permitted will be conducted in a manner which will not violate applicable water quality standards. 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 these standards have been promulgated by the Secretary, or, if a State or interstate agency has no authority to make such a certification, then the certification must be obtained from the Secretary. In order to insure that sheer inactivity by the State, interstate agency, or Secretary, as the case may be, will not frustrate the Federal application, a requirement, similar to that contained in the House bill is contained in the conference substitute that if within a reasonable period, which cannot exceed one year, after it has received a request to certify, the State, interstate agency, or Secretary, 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

[p. 55]

courts of that State are the forum in which the applicant must challenge that 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 Secretary, as the case may be, results in a complete prohibition against the issuance of the Federal license or permit.

When a licensing or permitting agency receives an application and a certification, it must immediately notify the Secretary of the Interior thereof. Whenever such a discharge may affect the quality of the waters of any other State as determined by the Secretary, then

the Secretary 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 its water quality standards and within that 60-day period notifies the Secretary 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 Secretary of the Interior 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 Secretary, 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 standards. 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 Secretary, 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 water quality standards 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 to be made, or (3) the water quality standards applicable to those waters. This paragraph is made inapplicable if the applicant for the operating license or permit has not provided the certifying State, interstate agency, or Secretary, 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 applicable water quality standards.

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 Secretary, as the case may be, to review the manner of operation of the facility for the purpose of assuring that applicable water quality standards will not be violated. Upon notification by such certifying

State, agency, or Secretary, as the case may be, that

[p. 56]

operation of this facility will violate applicable water quality standards, the Federal agency may, after public hearing suspend the license or permit until notification is received from the certifying State, agency, or Secretary, as the case may be, that there is reasonable assurance that the facility or activity will not violate applicable water quality standards. 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 Secretary, as the case may be, to impose operational requirements with respect to that facility or activity.

If a judgment is entered under section 10(h) of the Act that a federally licensed or permitted facility or activity has been operated in violation of applicable water quality standards, 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 before 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 at the end of three years from the date of enactment of the Act of 1970 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.

Except as provided in the preceding paragraph, an applicant for a license or permit pending on the date of enactment of the Water Quality Improvement Act of 1970, which license or permit is issued within one year after that date, will not require certification for a one-year period following the date of issuance of the license or permit except that that license or permit will terminate at the end of one year unless before that expiration date the licensee or permittee submits a certification and otherwise meets the requirements of this subsection.

In the case of any activity which will affect water quality for which there are no applicable standards, no certification will be required. However, a Federal licensing or permitting agency, in such event, must impose, as a condition of any license or permit, a requirement that the licensee or permittee shall comply with the purposes of the Act.

If a State in which a discharge originates or the Secretary notifies a Federal agency that its licensee or permittee has received notice of the adoption of water quality standards applicable to such activity and has failed to comply with the standards, the Federal agency must after a period of time, suspend license or permit until notice is received that there is reasonable assurance of compliance.

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 standards. The Secretary of the Interior is also directed to provide technical assistance to carry out the purposes of this Act.

This section will also authorize 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

[p. 57]

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 a nominal charge.

AWARDS FOR EXCELLENCE

House bill

The House bill in section 4 amends section 12 of the Federal Water Pollution Control Act to add a new subsection (f) which would authorize a program of official recognition by the United States to industrial firms and political subdivisions which demonstrate excellence in their waste treatment and pollution abatement programs. Those industrial firms and political subdivisions granted such an award are to receive a certificate or a flag of suitable design. Notification of the award is to be published in the Federal Register.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

Section 104 of the conference substitute adds a new subsection (f)

to redesignated section 22 of the Federal Water Pollution Control Act to authorize a program of official recognition by the United States to industrial organizations and political subdivisions which during the preceding year demonstrated either outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Secretary is to establish appropriate regulations for application for and granting of this award. No applicant is to be eligible if he is not in total compliance with all applicable water quality standards and does not otherwise have a satisfactory record with respect to environmental quality. The award is to be a certificate or plaque of suitable design, and notification of the award is to be published in the Federal Register.

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

House bill

Section 5 of the House bill amends section 5 of the Federal Water Pollution Control Act by adding four new subsections and by extending the provisions authorizing appropriations for 2 additional fiscal years at the level of authorization provided for fiscal year 1969, that is $65 million.

Section 5(g) authorizes the Secretary to enter into contracts and grants with various individuals, agencies, and organizations, for research and development on the problems of lake eutrophication and other lake pollution problems.

[p. 58]

Section 5(h) would authorize the Secretary to acquire lands and interests therein by purchase with appropriated or donated funds, by donation, or by exchange, lands or interests therein in connection with development of field laboratories, research facilities, and demonstration projects.

Section 5(i) would direct that the Secretary shall engage in research studies, experiments, and demonstrations by grant, contract, or otherwise, in the prevention and control of oil pollution, including the removal of oil discharges.

Section 5(j) would direct that the Secretary engage in a program of research, studies, experiments, and demonstrations by grants, contracts, or otherwise relative to the equipment which is to be installed on board a vessel and which is designed to receive, retain, treat, or discharge sewage from vessels with particular emphasis on equipment for use on recreational vessels. The Secretary is directed to file a report of his findings prior to the effective date of any standards to be established under section 18 of the Act.

Senate amendment

Section 104 of the Senate amendment would amend section 5 of the Federal Water Pollution Control Act by deleting the present subsection (g) relating to an estuary study and inserting that subsection as a new subsection in section 21 of the Act.

This section would also add a new subsection (g) to section 5 relating to the training of personnel to operate and maintain existing and future treatment works and related activities. Under this new program the Secretary will finance pilot programs of manpower development in training and retraining of people interested in entering, or who are actually in the field of operation and maintenance of such works. The purpose of the program is to supplement, not supplant, other manpower training programs. The Secretary can carry out these programs directly or through joint ventures with the States and other public or private agencies.

The Secretary is also authorized to enter into agreements to develop and maintain an effective system for forecasting the needs of various occupational categories in the water pollution field.

The new subsection would authorize the Secretary, in carrying out the purposes of the Federal Water Pollution Control Act, to make grants and enter into contracts, establish and maintain research fellowships, and provide additional training in technical programs in the water pollution field. The Secretary is required to submit a report to Congress by September 30, 1970, summarizing actions taken under the new subsection; including information on the number of persons trained, categories for which training was provided, effectiveness of various training programs in this field, and provide estimates of the needs of this field.

This section would also add a new subsection (h) to section 5 to authorize the Secretary to enter into contracts and grants for research and development on problems of lake eutrophication and other lake pollution problems, including construction of publicly owned research facilities for that purpose.

This section would also add a new subsection (i) to section 5 to direct the Secretary to engage in research, studies, experiments, and demonstrations by grant, contract, or otherwise in the prevention and control of oil pollution, including the removal of oil discharges.

[p. 59]

A new subsection (j) is added to section 5 to require the Secretary within two years to develop and issue to the States for the purpose of adopting standards pursuant to section 10(c), criteria reflecting the latest scientific knowledge useful in indicating the kind and extent of effects on health and welfare which may be expected from the pres-

ence of pesticides in the water in varying quantities. These criteria are to be revised from time to time. Further, the Secretary is required to conduct a study and investigation of methods to control the release of pesticides into the environment, including examination of persistency of pesticides and to report thereon within two years.

A new subsection (k) is added to section 5 which authorizes the Secretary to acquire lands and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange, in connection with development of field laboratories, research facilities, and demonstration projects.

This section would also authorize appropriations to carry out provisions of this section except subsection (g) (1) and (2) at the current level of authorization which is $65 million for fiscal years 1970 and 1971. In the case of subsection (g) (1), the authorization would be $5 million for fiscal year 1970 and $7.5 million for the next fiscal year. In the case of subsection (g) (2), the authorization is $2.5 million for each of those fiscal years.

Conference substitute

Section 105 of the conference substitute amends section 5 of the Federal Water Pollution Control Act as follows:

(1) By relettering the last two subsections and inserting after subsection (f) new subsections (g) through (l).

(2) The new subsection (g) provides the same authority with respect to training of personnel as was provided by the Senate amendment in its amendment to section 5(g).

The new subsection (h) provides for the same authority with respect to lake eutrophication as was contained in the Senate amendment. It would authorize financial assistance for the construction of publicly owned research facilities by public agencies, including publicly owned universities.

The new subsection (i), relating to research on oil removal problems with the substitution of the requirement that the specifications be developed from time to time, rather than by June 30, 1970, and with other minor changes is the same as the Senate amendment in this regard.

The new subsection (j), relating to marine sanitation device research is essentially the same as the provisions contained in the proposed subsection (j) in the House bill.

The new subsection (k), relating to land acquisition, is essentially the same as the comparable provisions in both the House bill and Senate amendment.

The new subsection (l) is essentially the same as the proposed subsection (j) in the Senate amendment relating to pesticides with the

exception that reference to criteria has been deleted, and the term "scientific knowledge" substituted therefor, and the requirement of making the study on pesticides has been placed in the President rather than the Secretary. The conferees expect that the Secretary will consult with the Secretary of HEW on the health aspects of pesticides and will avoid duplication of the research activities of the Department of HEW.

[p. 60]

In addition, this provision would extend through fiscal year 1971 the $1,000,000 authorized for the estuarine studies authorized in redesignated subsection (m) and would extend through fiscal year 1971 the authorization of $65,000,000 per year for carrying out section 5 on research and would authorize for subsection (g)(1) training $5,000,000 for fiscal year 1970 and $7,500,000 for fiscal year 1971, and $2,500,000 per fiscal year for each of those two fiscal years for carrying out subsection (g)(2) training. The extension of the estuarian authorization is necessary in connection with the gathering of additional information which may be required as the result of hearings now being held by the Public Works Committee.

OIL POLLUTION ACT, 1924

The House bill, the Senate amendment, and the conference substitute all repeal the Oil Pollution Act, 1924.

FINANCING STUDY

House bill

Section 9 of the House bill authorizes a study by the Secretary of the Interior of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, the results to be reported to Congress by January 1, 1970, together with recommendations.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

Section 109 of the conference substitute authorizes this study, excluding from it, however, the methods already authorized by existing law and extending to December 31, 1970, the reporting date. The authorization of this study is not to be construed as a weakening of the congressional commitment to the financing methods for water pollution control programs now authorized by law.

NAME CHANGE

House bill

Section 10 of the House bill changes the name of the Federal Water

Pollution Control Administration to the National Water Quality Administration.

Senate amendment

The Senate amendment contained no comparable provision.

Conference substitute

Section 10 of the conference substitute provides for changing the name of the Federal Water Pollution Control Administration to that of the Federal Water Quality Administration.

REIMBURSEMENT

Senate amendment

Section 106 of the Senate amendment amends section 8(c) of the Federal Water Pollution Control Act to specifically include in the provision relating to the reallotment of unused allocations language indicating that these can be used for the purpose of making reimbursements pursuant to the sixth and seventh sentences of section 8(c).

[p. 61]

House bill

The House bill contains no comparable provision.

Conference substitute

Section 111 of the conference substitute amends section 8(c) of the Federal Water Pollution Control Act to include for the purpose of making reimbursement, those States having projects eligible for reimbursement pursuant to the sixth and seventh sentences of subsection (c) of section 8.

The conferees agreed that this is merely a clarifying amendment and the authority for these reimbursements is contained in existing law. However, for clarification purposes, the specific words are added to the law.

NAVIGATION

Senate amendment

Section 108 of the Senate amendment amends the second sentence of section 10(c)(3) of the Federal Water Pollution Control Act to add the word "navigation" after the word "industrial,", thus making consideration of the value and use of water for navigation a factor to be taken into account in the establishment of water quality standards.

House bill

The House bill contains no comparable provision.

Conference substitute

Section 112 of the conference substitute adds a new sentence to section 10(c)(3) of the Federal Water Pollution Control Act. The

intent and purpose of this sentence is the same as that of the Senate amendment, that is to ensure that "navigation" will be considered in the same manner and to the same extent as the other enumerated classes in the establishment of standards. The conference substitute differs from the Senate amendment only in technique in order to avoid any possible misinterpretation of this provision.

ENVIRONMENTAL QUALITY

Senate amendment

Title II of the Senate amendment, consisting of five sections, relates to environmental quality.

Section 201 would cite this title as the Environmental Quality Improvement Act of 1969 and make certain congressional findings relative to the national policy set forth in specific statutes for the enhancement of environmental quality.

Section 202 would require each Federal agency conducting or supporting public works activity which affect the quality of the environment to implement the policies established by the President under this Act.

Section 203 would establish in the Executive Office of the President an Office of Environmental Quality.

Section 204 would direct that an advisory committee be established having a broad range of concern of population growth and environmental quality and planning for the future.

Section 205 would authorize appropriations to carry out the purposes of this title.

House bill

The House bill contains no comparable provision.

[p. 62]

Conference substitute

Title II of the conference substitute relates to environmental quality.

Section 201 cites the title as the "Environmental Quality Improvement Act of 1970".

Section 202 makes certain congressional findings relating to the national policy set forth in existing statutes relating to environmental pollution, control, water, and land resources, transportation, and economic and regional development. It also finds that the primary responsibility for implementing this national policy rests with the State and local governments, and encourages the implementation of the policy through regional organizations.

The section declares that the purposes of the title are to assure that existing Federal departments and agencies conducting or supporting public works activities affecting the environment shall imple-

ment the policies established under existing law and to authorize an Office of Environmental Quality.

Section 203 establishes in the Executive Office of the President an Office of Environmental Quality. The Chairman of the Council on Environmental Quality is to be the Director of this Office. A Deputy Director is authorized to be appointed by the President by and with the advice and consent of the Senate, and his compensation is provided for. The Director is authorized to employ necessary personnel. These personnel would be employed in accordance with the general classification laws and paid in accordance with the General Schedule, except that authority is granted for the employment of not to exceed ten specialists and experts without regard to the provisions of law governing appointment and payment in the competitive service, with the further condition that no such specialist or expert shall be paid at a rate above that of the maximum for GS–18. The conferees expect a report to the Public Works Committee from the Council on Environmental Quality within 90 days after the date of enactment of this Act on their staff needs, in terms of numbers, grades, and functions of temporary and permanent staff personnel.

In carrying out his functions, the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government which affect environmental quality as well as those specific major projects designated by the President which do not require individual project authorization by Congress and which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in orders to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

[p. 63]

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research and evaluation.

The Director in carrying out his functions is authorized to contract with public or private agencies, institutions, and organizations and individuals.

Section 204 provides for referral of the Environmental Quality Report to each standing committee of Congress having jurisdiction over any part of its subject matter.

Section 205 authorizes $500,000 for fiscal year 1970, $750,000 for fiscal year 1971, $1,250,000 for fiscal year 1972, and $1,500,000 for fiscal year 1973, in addition to the existing authorizations.

JOHN A. BLATNIK,
ROBT. E. JONES,
JIM WRIGHT,
GEORGE H. FALLON,
WILLIAM C. CRAMER,
WM. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.

[p. 64]

Appendix A

CHANGES IN THE FEDERAL WATER POLLUTION CONTROL ACT PROPOSED TO BE MADE BY THE CONFERENCE SUBSTITUTE FOR H.R. 4148

For information of the Members of the House of Representatives, changes in the Federal Water Pollution Control Act proposed to be made by the conference substitute for H.R. 4148, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

AN ACT To provide for water pollution control activities in the Public Health Service of the Department of Health, Education, and Welfare, and for other purposes

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 Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution. The Secretary of Health, Education, and Welfare (hereinafter 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 Health, Education, and Welfare designated by him, shall supervise and direct (1) the head of such Administration in administering this Act and (2) the administration of all other functions of the Department of Health, Education, and Welfare related to water pollution. 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.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

SEC. 2. Effective ninety days after the date of enactment of this section there is created within the Department of Health, Education, and Welfare a [Federal Water Pollution Control Administration]

[p. 65]

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.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

SEC. 3. (a) The Secretary shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution control agencies and interstate 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 conditions 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 Secretary is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharge 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 Secretary, 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.

(c) (1) The Secretary 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 [p. 66] 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 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 Secretary 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 State laws relating to 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 Secretary shall conduct in the Department of Health, Education, and Welfare 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 Secretary is authorized to—

[p. 67]

(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 Department of Health, Education, and Welfare 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 Secretary 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 Secretary may, upon request of any State water pollution control agency, or interstate agency, conduct investigations and research and make surveys concerning 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 Secretary shall, in cooperation with other Federal, State,

and local agencies having related responsibilities, collect and disseminate basic data on chemical, physical, and biological 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 Secretary 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 developments; 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.

(e) The Secretary 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

[p. 68]

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 Secretary 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, and evaluation of the water quality needs of those to be served by such waters, and 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 Secretary shall finance a pilot program, 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, 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 Secretary 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 Secretary 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 Secretary 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 Department of the Interior 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 water pollution for personnel of public agencies and other persons with suitable qualifications.

[p. 69]

(4) The Secretary 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 Secretary 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 construction of publicly owned research facilities for such purpose.

(i) The Secretary 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 Secretary may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

(j) The Secretary 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 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 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 Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary 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 Secretary as the circumstances require.

(l) (1) The Secretary 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

[p. 70]

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, 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.

[(g)](*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 investi-

gations 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 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, [and June 30, 1969,], *June 30, 1969, June 30, 1970, and June 30, 1971,* to carry out the purposes of this subsection.

[p. 71]

(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 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.

[(h)](*n*) There is authorized to be appropriated to carry out this section, other than subsection [(g), not to exceed $60,000,000 for the fiscal year ending June 30, 1968, and $65,000,000 for the fiscal year ending June 30, 1969] (*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. Sums so appropriated shall remain available until expended.

GRANTS FOR RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Secretary 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 water 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 Secretary 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) 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 Secretary; and

[p. 72]

(3) No grant shall be made for any project under this section unless the Secretary 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

(3) No grant shall be made for any project unless the Secretary 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 [three] *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 [two] *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 [two] *four* succeeding fiscal years, the sum of $20,000,000 per fiscal year for the purpose set forth in subsection (b).

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 Secretary 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) From each State's allotment under subsection (c) for any

fiscal year the Secretary shall pay to such State an amount equal to

[p. 73]

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.

(e) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to interstate agencies, in accordance with regulations, on such basis as the Secretary 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.

(f) The Secretary 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 Secretary may from time to time reasonably require to carry out his functions under this Act;

(3) sets forth the plan, policies, and methods to be followed in carrying out the State (or interstate) plan and in its administration;

(4) provides for extension or improvement of the 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 Secretary 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.

(g)(1) Whenever the Secretary, 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 Secretary 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

[p. 74]

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 Secretary 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 Secretary'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 Secretary, unless contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary 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 Secretary 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 shares" shall be promulgated by the Secretary 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 Secretary 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,

[p. 75]

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 Secretary may find necessary.

(2) The Secretary 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 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 Secretary may determine.

GRANTS FOR CONSTRUCTION

SEC. 8. (a) The Secretary 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 Secretary 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 Secretary; (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 Secretary for assuring proper and efficient operation 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 Secretary) 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 Secretary) of all projects for which Federal grants are to be made under this section from such allocation and if

[p. 76]

enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section

10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters.

(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 Secretary 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 subsection (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 allotted by the Secretary 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 Secretary 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 sentences 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 Secretary, 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 sentences of this subsection: Provided, however,* That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project 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, except that in the case of any project on which construction was initiated in such State after

[p. 77]

June 30, 1966, which was approved by the appropriate State water pollution control agency and which the Secretary 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 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 finding by the Secretary 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 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.

(e) The Secretary 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,

[p. 78]

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 Secretary 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 statistical 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 Secretary 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. 1494; 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).

WATER POLLUTION CONTROL ADVISORY BOARD

SEC. 9. (a) (1) There is hereby established in the Department of Health, Education, and Welfare, a Water Pollution Control Advisory Board, composed of the Secretary 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 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.

[p. 79]

(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 hear 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 but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed "preceding 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 at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, 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 Secretary on matters of policy relating to the activities and functions of the Secretary 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 Department of Health, Education, and Welfare.

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 or 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 waters 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 ac-

cordance with the letter of intent, and if the Secretary determines that such

[p. 80]

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 paragraphs (1) of this subsection, or of the Secretary or the Governor of any State affected by water quality standards established pursuant to this subsection desires a revision in such standards, the Secretary 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 Secretary publishes such regulations, the State has not adopted water quality standards found by the Secretary 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 Secretary 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 Secretary, 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 Secretary, the hearing board, or the appropriate State authority shall take into consideration their use and value for navigation.*

(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 Secretary for a hearing, the Secretary 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 Secretary. 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 Department of Health, Education, and Welfare. 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 Secretary, 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

[p. 81]

evidence presented at such hearing, the Hearing Board shall make findings as to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the Hearing Board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the Hearing Board's recommendations. If the Hearing Board recommends modifications in the standards as published or promulgated, by the Secretary, the Secretary 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 paragraph (1) or (2) of subsection (g) as authorized by this subsection, the Secretary shall notify 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 recommendations of the conference and Hearing Board and the recommendations and standards promulgated by the Secretary, and such additional evidence, including that relating to the alleged viola-

tion of the standards, as it deems necessary to a complete review of the standards and to a determination of all other issues relating to the alleged violation. The court, giving due 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 case 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 a 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 Secretary 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

[p. 82]

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 Secretary 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 Secretary, 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 Secretary 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 substantial 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 Secretary, 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 Secretary, 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 Secretary 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 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.

[p. 83]

(4) Following this conference, the Secretary 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 Secretary 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 Secretary shall allow at least 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 Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary 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 Secretary. 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 Department of Health, Education, and Welfare. 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 pollution referred to in subsection (a) is occurring and 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 Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution. The Secretary shall send such findings and 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 Secretary 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

[p. 84]

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 Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. 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 Secretary 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 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 Secretary 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 Secretary—

(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 (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 dis-

charge 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 case 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 Secretary, but not exceeding $100 per diem, including travel time, and while away

[p. 85]

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.

(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 Secretary 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 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 Secretary 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.

CONTROL OF POLLUTION BY OIL

Sec. 11. (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;

[p. 86]

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, 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 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.

(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 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.

(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 remove or arrange for the removal of such oil 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 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

[p. 88]

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;

(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 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 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 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 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 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.

(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.

(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

[p. 89]

owner or operator of any vessel 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 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 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 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 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.

[p. 90]

(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 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 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.

(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

[p. 91]

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, (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.

(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

[p. 92]

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 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, 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 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) The Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, and taking

[p. 93]

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; 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 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; 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 substance 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—

(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

[p. 94]

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 includ-

ing 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.

(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 facilities of Federal departments, agencies, and instrumentalities in such manner as will avoid duplication of effort.

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, 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;

[p. 95]

(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 Secretary, 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 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 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 Secretary, 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 promulgaton of the initial standards required by this section), and, upon application, for individual vessels.

[p. 96]

(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 Secretary 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) 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. Upon application by a State, and where the Secretary 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.

(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 Secretary 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 Secretary 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*

[p. 97]

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 Secretary 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 Secretary 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) 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) 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

[p. 98]

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 Secretary, 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, 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.*

AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

Sec. 14. (a) *The Secretary 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 Secretary, 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.

[p. 99]

POLLUTION CONTROL IN GREAT LAKES

Sec. 15. (a) The Secretary, 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 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 Secretary.

(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.

TRAINING GRANTS AND CONTRACTS

Sec. 16. The Secretary 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 under-

graduate 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 Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

[p. 100]

(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 Secretary may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) The Secretary 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 purposes of this section.

(3) (A) Payment under this section may be used in accordance with regulations of the Secretary, 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 Secretary 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 Secretary may determine but not to exceed four academic years.

(2) The Secretary 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 Secretary 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 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 Secretary 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 Secretary 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 Secretary 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 Secretary 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 Secretary pursuant to regulation.

(6) The Secretary 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 Secretary determines appropriate.

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 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 Secretary for this purpose. For purposes of this subsection, the Secretary 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 Secretary.

[p. 102]

(2) The Secretary shall annually report his activities under sections 16 through 19 of this Act, including recommendations 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. 20. (a) The Secretary 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 the 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 devoloping 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 Secretary 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 Secretary 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.

[COOPERATION TO CONTROL POLLUTION FROM FEDERAL INSTALLATIONS

[SEC. 11. It is hereby declared to be the intent of the Congress that any Federal department or agency having jurisdiction over any building, installation, or other property shall, insofar as practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of Health, Education, and Welfare, and with any State or interstate agency or municipality having jurisdiction over waters into which any matter is discharged from such property, in preventing or controlling the polluton of such waters. In his summary of any conference pursuant to section 10 (d) (3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 10 (f) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the

[p. 103]

Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board.]

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 Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such 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 hearing shall include references to any such discharges which are contributing to the pollution found by such board.

(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 Secretary 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 Secretary. If the State, interstate agency, or Secretary, 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 Secretary, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Secretary of such application and certification. Whenever such a discharge may affect, as determined by the Secretary, the quality of the waters of any other State, the Secretary within thirty days of the date of notice of application for such

[p. 104]

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 its water quality standards, and within such sixty-day period notifies the Secretary 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 Secretary 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 Secretary, 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 standards. 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 Secretary, 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 Secretary, 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 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, 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 Secretary, 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 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 Secretary 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 Secretary 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 Secretary, as the case may be, that there is reasonable assurance that such facility or activity will not violate applicable water quality standards.

[p. 105]

(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 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.

(B) Upon notice from the State in which the discharge originates or, as appropriate, the interstate agency or the Secretary, 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 Secretary 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 Secretary 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 it to be in the public interest, to permit the use of spoil disposal

[p. 106]

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.

ADMINISTRATION

SEC. [12] 22. (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Secretary, 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 Depart-

ment of Health, Education, and Welfare 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 Secretary 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 Secretary of Health, Education, and Welfare 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.

(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 Secretary 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 Secretary 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 Secretary, and the awarding of such recognition shall be published in the Federal Register.

DEFINITIONS

SEC. [13] 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.

[p. 107]

(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 an Indian tribe or an authorized Indian tribal organization.

OTHER AUTHORITY NOT AFFECTED

SEC. [14] *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 [the Oil Pollution Act, 1924, or] 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.

SEPARABILITY

SEC. [15] *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. [16] *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 authoriza-

tion of appropriations for fiscal years beginning after June 30, 1968, the Secretary, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall make a detailed estimate of the cost of carrying out the provisions 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 Secretary shall submit 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.

[p. 108]

(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.

[SEC. 17. The Secretary of the Interior shall, in consultation with the Secretary of the Army, the Secretary of the department in which the Coast Guard is operating, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, conduct a full and complete investigation and study of the extent of the pollution of all navigable waters of the United States from litter and sewage discharged, dumped, or otherwise deposited into such waters from watercraft using such waters, and methods of abating either in whole or in part such pollution. The Secretary shall submit a report of such investigation to Congress, together with his recommendations for any necessary legislation, not later than July 1, 1967.

[SEC. 18. The Secretary of the Interior shall conduct a full and complete investigation and study of methods for providing incentives designed to assist in the construction of facilities and works by industry designed to reduce or abate water pollution. Such study shall include, but not be limited to, the possible use of tax incentives as well as other methods of financial assistance. In carrying out this study the Secretary shall consult with the Secretary of the Treasury as well as the head of any other appropriate department or agency of the Federal Government. The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than January 30, 1968.]

SHORT TITLE

SEC. [19] 27. This Act may be cited as the "Federal Water Pollution Control Act".

[p. 109]

1.2k(4) CONGRESSIONAL RECORD

(a) Vol. 115 (1969), April 15, 16: Considered and passed House, pp. 9015–9052, 9259, 9264–9292

WATER QUALITY IMPROVEMENT ACT OF 1969

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 340 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 340

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Public Works now printed in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) and, pending that, I yield myself such time as I may consume.

Mr. Speaker, when this rule was considered in the Committee on Rules there was some controversy over the jurisdiction between the committee handling the bill and the Committee on Merchant Marine and Fisheries. The Committee on Rules overwhelmingly decided that the bill should be sent to the floor with the rule that has just been read.

Mr. Speaker, points of order were waived on the bill as a whole because there are some transfer funds, and the establishment of a revolving fund—not transfer of funds, but payment of cash is authorized in the acquisition of land, and that is the reason for the waiver of points of order.

Insofar as I know, there is no substantial controversy over the rule. I understand there is some on the bill itself, but not too much.

Therefore, Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

[p. 9015]

Mr. Speaker, as stated by the distinguished gentleman from Missouri, House Resolution 340 does provide for 3 hours of debate under an open rule for consideration of the bill H.R. 4148, entitled "The Water Quality Improvement Act of 1969."

Points of order are waived as against the substitute bill, and the committee amendments.

Mr. Speaker, the purpose of the bill is to improve the means available to control pollution of offshore waters and rivers of the United States. Major sections of the bill seek to control such sources of pollution as, first, oil and other sea-carried pollutants; second, sewage from vessels; third, acid and other pollutants from mines; and, fourth, pollution from any federally operated source. Additionally, the bill provides for research grants and a scholarship program for students, both programs to be administered by the Secretary of the Interior.

The bill applies to oil discharges on the high seas in the contiguous zone along our coastline. Such discharges are forbidden except in emergency situations. Civil penalties of up to $10,000 for an oil discharge are provided. Operators of facilities or ships are required to remove any discharge of oil or other pollutants. If the United States must do the removal work, the cost shall be borne by the polluter up to $10 million or $100 per gross registered ton—of ships—whichever is the lesser. The bill also sets up a revolving fund of $20,000,000 for use in cleanups. The effort is to place responsibility for damage done by discharges of oil or other pollutants by ships or shore-area facilities upon the owners and operators, and to require them to be primarily responsible for necessary cleanup operations.

The bill also seeks to remove pollutants discharged into the water in the form of raw sewage from vessels. The Coast Guard will oversee a program designed to insure that such raw sewage is treated before discharging it. New vessels are to have approved toilet facilities installed by December 31, 1971, or within 2 years of the time the Coast Guard promulgates standards and regulations. For existing vessels the time period is set at within 5 years after such promulgation. The States will be brought into the program with respect to their intrastate waters.

After the effective dates of the standards set by the Coast Guard, it shall be unlawful to operate a vessel which does not comply. These regulations will apply to pleasure boats as well as commercial vessels, in short, any vessel which has toilet facilities will be required to treat its raw sewage before discharging it into the water. Civil penalties are provided for violations and in proper cases injunctive relief may be sought.

The Secretary is also authorized to make grants to universities for research and for planning and developing of training for students in the field of design and operation of waste treatment works. He may also provide scholarship grants. Authorizations for educational grants are $12,000,000 for 1970 and for 1971 and 1972 the figure is $25,000,000 per annum.

Finally, the bill provides for research in a number of water quality problems. The current level of funding is extended for two additional years, through fiscal 1971. Funding levels authorized are $65,000,000 per annum. Areas in which research work is to be continued include: First, prevention, removal and control of lake pollution; second, prevention of oil pollution; third, research into prevention of pollution discharges from recreational vessels and the development of treatment facilities for such craft; and, fourth, funding for appropriate demonstration projects.

Total authorizations contained in the bill are $348,000,000 covering fiscal years 1970 through 1972. Major items include:

	Millions
General research and development of treatment facilities	$130
Demonstration projects and development	120
Training grants	62
Clean-up revolving fund	20

There are no minority views.

Mr. Speaker, I urge adoption of the rule.

Mr. BOLLING. Mr. Speaker, I

move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FALLON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4148, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Maryland (Mr. FALLON) will be recognized for 1½ hours, and the gentleman from Florida (Mr. CRAMER) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Maryland (Mr. FALLON).

Mr. FALLON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4148, the Water Quality Improvement Act of 1969, has been developed after extensive hearings by the Committee on Public Works, both here in Washington and in Santa Barbara, Calif., and is the culmination of the consideration given by this body and the Public Works Committee during the 90th Congress. H.R. 4148 was reported out unanimously by the committee.

The legislation covers discharges of oil and other hazardous substances from vessels and onshore and offshore facilities, including the cleanup of these discharges and prevention thereof, the control of untreated or inadequately treated sewage from vessels, the extension of the research, development, and training program of the Federal Water Pollution Control Administration, the effect of Federal activities and federally licensed or permitted activities on our Nation's waters, and establishes a new training program designed to provide more efficient waste treatment works, both at the municipal and industrial level. Finally, the legislation would change the name of the Federal Water Pollution Control Administration to the National Water Quality Administration in order to provide a more positive emphasis to the program.

It is clear that the need for this legislation is quite urgent. The history of oil spills dating back to the one we all remember; namely, the *Torrey Canyon* off the coast of England, the *Ocean Eagle* in the San Juan Harbor, P.R., and the disastrous oil spill off the Santa Barbara coast, only serve to demonstrate that unless action is taken immediately to provide the tools necessary to cope with these spills more of our coastline beaches and marine resources could be destroyed or severely damaged. The public outcry that has developed in the past year in connection with these spills shows that there is considerable interest throughout the country in this legislation.

In addition to the more dramatic aspects of this legislation; namely, those relating to oil spills, there is also a very definite need to improve, accelerate, and expand our research and demonstration and training efforts in the water pollution control area and to control sewage that is discharged from both commercial and recreational vessels into our Nation's waterways. This legislation meets these needs.

In the area of financing of waste treatment works, we are most con-

cerned with the fact that to date this program has not been adequately financed despite the Congress' considerable efforts in 1966 and subsequent years to establish a graduated and meaningful level of financing the Federal share of these works. We are hopeful that recommendations will be made by the executive branch to increase the financing in the forthcoming fiscal year through additional appropriations over and above the meager amounts appropriated during the last Congress. If, however, this cannot be accomplished, the Committee on Public Works will consider alternative legislative approaches during this session of the 91st Congress.

Mr. Chairman, I urge unanimous approval of this important and far-reaching Water Quality Improvement Act of 1969. It is a major conservation measure that deserves the support of every Member of Congress.

Let me conclude by paying tribute to the members of the Committee on Public Works, my colleagues who have worked so diligently, so hard and so long on this legislation which is before us today. I would particularly commend the ranking minority member of the committee, and one of the leaders in the field of water pollution control, my good friend from Minnesota, the Honorable JOHN A. BLAT-

[p. 9016]

NIK, and all the other members of the committee on both sides of the aisle.

Mr. Chairman, I urge passage of H.R. 4148.

Mr. FALLON. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. BLATNIK), chairman of the subcommittee handling this legislation, as much time as he may require.

Mr. BLATNIK. Mr. Chairman, at the outset on behalf of the entire committee, I would like to pay our respects to our able and effective and certainly highly regarded chairman, the gentleman from Maryland (Mr. FALLON). He worked diligently with all of us every step of the way, and we therefore doubly appreciate the kind words he said about those of us who worked on the development of this legislation. Many of us, on both sides of the aisle, joined together to resolve the problems so that we could present a strong and workable proposal. A tremendous amount of frustrating day-in and day-out work was handled with talent and patience by both the majority and the minority staffs. In our meetings we had the benefit of experience and advice from representatives of the Federal Water Pollution Control Administration, the Coast Guard, and the State Department, as well as constant contact with the various State agencies and conservationists.

Mr. Chairman, very thoughtful care has gone into this very complicated and involved matter, and particularly that section dealing with enormous catastrophic oil spills where the complex problems of liability and responsibility, as well as preventive aspects, are involved. We have also evolved recommendations on what can be done when these catastrophes do occur, in spite of whatever preventive measures were pursued. That remedial work, which is inevitably a laborious and extensive job, will be explained in more detail by the gentleman from Texas (Mr. WRIGHT) and the gentleman from New Jersey (Mr. HOWARD), both of whom have devoted long hours to this legislation.

We will also hear from good spokesmen for the minority on this program. Their unanimous work and support have continued the genuine bipartisanship that has characterized our pollution control work over the years.

The Committee on Public Works had extensive hearings on this legislation starting in the 90th Congress and continuing in the 91st Congress in February and March of this year.

During the 90th Congress, the committee considered legislation on the con-

trol of oil pollution discharges, the treatment of sewage from vessels, the extension and expansion of the vital water pollution research programs, and legislation to provide more money for the financing of needed waste treatment works. The committee reported out strong legislation in all of these areas, and that legislation unanimously passed the House of Representatives on two occasions but unfortunately the time ran out on the 90th Congress before differences in the House and Senate versions could be resolved in conference.

Since last year the need for this legislation, particularly in the area of oil pollution control, has been dramatically brought to the attention of the Congress and into the public eye by one of the worst oil pollution disasters in the Nation's history. The catastrophe in Santa Barbara, Calif., was a realistic example of the damages which can result from a major oil spill.

It was the committee's objective in our hearings and in our discussions leading up to the reporting of this legislation to recommend legislation which would adequately meet all contingencies and avoid the need for additional legislation if and when a new disaster occurs. In pursuit of this objective, we obtained meaningful data from industry and governmental witnesses on the best means and methods of preventing discharges of oil and other hazardous matter, the costs of removing these pollutants from our waters, beaches and shores when they occur, the availability of insurance and its costs, and the extent to which measures and devices have been developed to remove oil and matter.

In addition to the oil pollution problem, this legislation extends the water pollution research program authorization 2 additional years, provides new emphasis on the problems of acid mine drainage water pollution, and lake eutrophication and related lake pollution problems.

H.R. 4148 further provides for control of sewage from vessels, establishes a training program for individuals in the field of design, operation, and maintenance of modern waste treatment works, and requires applicants for a Federal license or permit to conduct an activity which may result in discharge into the navigable waters of the United States to obtain a State certification that the activity will not reduce the quality of the water below applicable water quality standards. Finally, this legislation changes the name of the Federal Water Pollution Control Administration to the National Water Quality Administration so as to provide a psychological lift to the program by providing a more positive approach through preventive measures to maintain adequate water quality levels.

This legislation has been endorsed by the administration. We have received a letter dated April 3, 1969, from Russell E. Train, the Undersecretary of the Interior, to the chairman of the Public Works Committee, the Honorable GEORGE H. FALLON. Under leave to extend my remarks, I include a copy of the letter at this point:

DEAR MR CHAIRMAN: Your Committee has requested the Department's views on H R. 4158 as reported by your Committee on March 25, 1969

H.R. 4148, which is known as the Water Quality Improvement Act of 1969, covers the subjects of oil and matter discharges from vessels, onshore facilities, and offshore facilities, untreated or inadequately treated sewage from vessels, research and development in the area of acid mine pollution, lake pollution, oil pollution, and sewage from vessels; pollution from Federal installations and facilities; and waste discharges from activities constructed and operated under Federal license or permit It also extends the research provisions of the Federal Water Pollution Control Act an additional 2 fiscal years, and changes the name of the Federal Water Pollution Control Administration to the National Water Quality Administration.

In regard to the provisions on the control of pollution by oil and other matter, the legislation would—

Provide that any individual in charge of a vessel or onshore or offshore facility who has knowledge of the discharge of oil or matter

from such facility or vessel must immediately notify the Secretary of the Interior or the Coast Guard of the discharge so that appropriate steps may be taken to remove the discharged oil or matter. Failure to notify could result in a criminal penalty,

Prohibit the discharge of oil or matter from a vessel into the navigable waters of the United States or into the waters of the Contiguous Zone, except under certain limited conditions such as emergencies affecting the life of individuals, or acts of war or sabotage, or unavoidable accidents, collisions, or strandings;

Provide a civil penalty of up to $10,000 in cases of willful or negligent discharges of oil or matter in substantial quantities in violation of the above prohibition This penalty would be assessed by the Coast Guard after notice and an opportunity for a hearing. We note that the term "substantial quantities" is discussed in the Committee report The report indicates that it will need interpretation in its application in specific situations,

Define the term "matter" to include all substances other than oil, dredged spoil, sewage, and certain materials now covered by the Atomic Energy Act In defining this term, the bill leaves it up to the Secretary of the Interior to determine what matter would present an imminent and substantial hazard to the public health or welfare including fish, shellfish, wildlife, and public and private lands. We also note that the Committee report indicates that the Secretary of the Interior would have to issue regulations from time to time establishing what items might be considered substances that would be subject to the provisions of this Act,

Authorize the United States to clean up discharges of oil or matter when the Secretary of the Interior determines that there is an actual or threatened pollution hazard unless other adequate arrangements for removal of these discharges have taken place. We interpret the latter provision to mean that the United States would have to be satisfied that the arrangements made by the owner or operator of a vessel or a person owning or operating an onshore or offshore facility are adequate within the regulations prescribed under this section to insure that the removal will be carried out expeditiously and in a manner that would not be harmful to marine resources and other property. If they were not adequate, in the judgment of the United States, then the United States could act to remove the oil or matter and later recover its costs.

Authorize the United States to remove summarily and, where necessary, destroy any vessel that presents a substantial threat of pollution in the navigable waters of the United States because of an actual discharge or the imminence of a threatened discharge of large quantities of oil or matter. The expense of removing a vessel would be charged against the vessel, its cargo, and the owner or operator of the vessel where the negligent operation of the vessel caused or contributed to the marine disaster;

Require that the owner or operator of a vessel remove any oil or matter discharged into the navigable waters of the United States or into the waters of the Contiguous Zone where the discharge was due to some willful or negligent act. In cases where the United States removes such discharges, the owner or operator would be liable to the United States for the cost thereof up to a maximum of $10 million or $100 per gross registered ton, whichever is less;

[p. 9017]

Provide a similar requirement in the case of onshore facilities and offshore facilities located within the territorial sea of the United States, except that the limitation of liability where the United States removes the discharges of oil would be $8 million. It also provides that the Secretary of the Interior would establish by regulation classifications of onshore facilities and activities which would be subject to the $8 million limitation and possibly establish differing limitations of liability with respect to these classifications This classification authority would not become effective, however, until the Secretary notified the Congress of the intended classifications and allowed at least 60 days before the effective date of the classifications;

Authorize the issuance of regulations by both the Secretary of the Interior and the Coast Guard relative to removal of discharged oil or matter and provide civil penalties for violations of the regulations;

Establish a revolving fund to be administered by the Coast Guard and authorize a maximum appropriation of $20 million to the fund in addition to other revenues for the clean up of discharges and provide for delegation by the President of the authority to clean up discharges of oil or matter; and

Provide for the establishment of a system of financial responsibility for vessels over 100 gross registered tons, including any barge of equivalent size, that use our navigable waters or ports. The financial responsibility provisions would be effective one year after enactment and would apply to the liability to the United States for the removal of oil or matter discharges.

The oil and matter provisions of the legislation make it clear that the legislation is not intended to affect the authority of the States to establish different requirements or limitations of liability, nor does this legislation affect the rights of third parties who might bring actions to recover damages

resulting from the discharge of oil or matter or from the removal of such discharges. In addition, the bill does not cover the discharges of offshore facilities located on the Outer Continental Shelf The Committee report indicates that this omission results from the fact that this Department advised your Committee that we believe we have adequate authority to require Federal lessees on the Outer Continental Shelf to remove discharged oil and to pay the United States for any cost it may incur in the removal of the discharge without any dollar limitations or findings of fault.

In addition to the oil provisions, the legislation would provide for the establishment of standards of performance in connection with marine sanitation devices and the establishment of regulations by the Coast Guard relative to the operation, maintenance, and installation of these devices. The devices would have to be installed on both commercial and recreational vessels with installed toilet facilities using United States waterways once the standards and regulations were effective The bill also provides a system of certification by the Coast Guard of the device and establishes a pre-emption of State laws and regulations once the Federal standards and regulations are effective. It, however, permits the States to prohibit all discharges in intrastate waters if the States also prohibit discharges from other sources in those waters As in the oil provisions, the bill provides for civil penalties for violations specified in the legislation.

The bill would provide that any applicant, other than a Federal agency, seeking a Federal license or permit must obtain certification from any affected State or interstate agency that the discharge from the applicant's activity for which he seeks a license or permit will be conducted in a manner that will not reduce the quality of the waters below the applicable Federal, State, or local water quality standards In cases where a State lacks authority to give such certification or where the Secretary of the Interior has established the water quality standards under the Water Quality Act of 1965, then the Secretary would provide such certification. In cases where a license or permit has been given by a Federal agency for an activity that is under construction prior to the date of enactment of this legislation, no certification will be required, but the license or permit issued without the certification will terminate after the expiration of 2 years after enactment unless the licensee or permittee obtains the proper certification. No Federal permit or license can be issued where it is required under this legislation until the certification is obtained.

The bill would provide additional authority for training individuals in the field of design, operation, and maintenance of waste treatment works

The bill would also extend the present research and demonstration provisions of the Federal Water Pollution Control Act an additional 2 fiscal years at the current annual level of appropriation authorization. This appropriation authorization will expire on June 30, 1969, and an extension is urgently needed

Lastly, the bill would change the name of the Federal Water Pollution Control Administration to the National Water Quality Administration The objective of this change is to provide a more positive emphasis to the program

On the basis of our review of the reported bill, we conclude that the legislation follows, in general, the recommendations made by the Secretary in his testimony before your Committee In particular, it carries out the Administration's recommendation relative to the division of responsibility for enforcement, cleanup, and other matters between this Department and the Department of Transportation in the oil and sewage sections of the reported bill. While we may have some specific recommendations on the bill for the Senate Committee, once it passes the House of Representatives, we are able at this time to recommend its passage by the House of Representatives.

The Bureau of the Budget advises that they have no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

RUSSELL E. TRAIN,
Under Secretary of the Interior.

However, I would like to quote one paragraph of the letter:

On the basis of our review of the reported bill, we conclude that the legislation follows, in general, the recommendations made by the Secretary in his testimony before your Committee In particular, it carries out the Administration's recommendation relative to the division of responsibility for enforcement, cleanup, and other matters between this Department and the Department of Transportation in the oil and sewage sections of the reported bill While we may have some specific recommendations on the bill for the Senate Committee, once it passes the House of Representatives, we are able at this time to recommend its passage by the House of Representatives.

I would be remiss in these opening comments if I did not pay proper commendation to my colleagues on the Committee on Public Works who have labored hard and long this year to

bring this excellent legislation before you. In addition to the effective leadership, encouragement, and support of the gentleman from Maryland (Mr. FALLON), the chairman of the House Committee on Public Works, splendid contributions were made by such outstanding colleagues and workers in the field of water quality as BOB JONES of Alabama; JIM WRIGHT of Texas; ED EDMONDSON of Oklahoma; and JIM HOWARD of New Jersey, each of whom will explain in detail a portion of this legislation, and all my colleagues on the committee on both sides of the aisle.

At this point I submit for the RECORD a brief synopsis of the highlights of H.R. 4148.

SYNOPSIS OF H.R. 4148

A. In the area of oil and other hazardous pollution, the bill would:

Apply to discharges of oil and matter into the navigable waters, the contiguous zone, and the high seas from vessels and onshore and offshore facilities (see definition p. 38).

Provide for notice of all discharges by individuals in charge of a vessel or onshore or offshore facility to either the Secretary of the Interior or the Coast Guard (see Section 17(b), p. 4).

Prohibit oil and matter discharges from vessels except in emergency situations or except where permitted by international convention (see section 17(c), p 41).

Establish civil penalties of up to $10,000 for willful or negligent oil or matter discharges from vessels (see section 17(c)(2), p 41).

Direct that the U S remove oil or matter discharged where there is a pollution hazard to private or public beaches or shorelines in the U.S. or to marine resources (see section 17(d)(1), p. 42).

Authorize the United States to remove or destroy a vessel in U S. waters when a marine disaster creates a substantial pollution threat to the United States. The Corps of Engineers has similar authority today in cases of navigation hazards (see section 17(d)(2) p. 43).

Require the owner or operator of the vessel or onshore or offshore facility to remove the discharged oil or matter immediately (see sections 17(e) and (f) p 44 & 46)

Provide a limitation of liability to the U.S for costs of removal by the U.S. of vessel discharges of up to a maximum of $10 million or $100 per gross registered ton, whichever is the lesser (see section 17(e) p 45).

Provide an $8 million limitation of liability for U S costs of removal in case of onshore facilities and offshore facilities located on inland waters and within the territorial sea, but suspends the limitation on onshore facilities until certain findings are made by Interior (see section 17(f)(3) p. 47).

Establish a $20 million revolving fund for cleanup to be administered by the Coast Guard (see section 17(h) p 50)

Provide a system of financial responsibility for vessels of over 100 gross registered tons and barges of equivalent size, effective 1 year after enactment (see section 17(k) p. 53).

Repeal the antiquated Oil Pollution Act of 1924 which was developed by the House Public Works Committee (see section 7 p. 78).

B. In the area of control of sewage from vessels, the bill would:

Direct the Secretary of the Interior to issue Federal standards of performance for marine sanitation devices for all vessels (except vessels not equipped with installed toilet facilities), and it would direct the Coast Guard to issue regulations relative to the design, construction, installation, and operation of these devices on board such vessels (see p. 56).

Apply to existing vessels, the construction of which is initiated prior to issuance of the standards and regulations (see definition p. 55).

Apply to new vessels, the construction of which is initiated after issuance of the standards and regulations (see definition p. 55).

Provide that the initial standards shall be effective for new vessels two years after promulgation, but not earlier than December 31, 1971, and for existing vessels five years after promulgation (see definition p 57)

[p. 9018]

Provide for a system of certification by the Coast Guard of marine sanitation devices (see definition p. 59).

Provide for the establishment of civil penalties after notice and opportunity for a hearing (see p. 62).

Provide that provisions of this section shall be enforced by the Coast Guard (see p. 63).

C In the area of training of personnel, the bill would:

Authorize the Secretary to make grants or to enter into contracts with institutions of higher education to assist them in planning, developing, strengthening, improving, or carrying out programs or projects to prepare undergraduate students entering into occupations involving the design, operation, and maintenance of waste treatment works (see p 64–72)

Provide that these grants or contracts may be used to pay the compensation of students employed in connection with the operation and maintenance of treatment works (see p. 68)

Authorize the award of scholarships for undergraduate studies for periods up to 4 aca-

demic years and the making of stipends (see p 69).

Provide that the Secretary by regulation will require that any person awarded a scholarship must enter into an agreement in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period as the Secretary determines appropriate after the completion of the student's studies (see p. 71).

Authorize appropriations for fiscal year 1970 of $12 million and for fiscal years 1971 and 1972 of $25 million annually—total $62 million (see p. 72).

D. In the area of research, the bill would:

Authorize grants and contracts for the prevention, removal, and control of lake pollution (see p. 76).

Authorize research and demonstration projects relative to acid mine pollution (see p 64).

Authorize grants and contracts relative to research and development on the prevention and control of oil pollution (see p 76 and 77)

Authorize the Secretary to engage in studies, research, experiments, and demonstrations relative to discharges from recreational vessels and the equipment installed thereon with the requirement of a report to Congress (see p. 77)

Authorize the Secretary to acquire lands and interests therein for field laboratories and research facilities and in connection with demonstration projects (see p 76).

Extend the appropriation authorization provisions of sections 5 and 6 of the Act two additional years at the current level of appropriation authorizations which is $120 million for F.Y. 1969 (see p. 78).

E. In the area of controlling pollution from federal activities and federally licensed or permit activities, the bill would:

Require that all federal installations take immediate steps to insure compliance with applicable federal, state or local water quality standards, subject, of course, to the availability of appropriations, and consistent with national needs (see pages 73–75)

Require that all applicants, other than Federal agency applicants, obtain a certificate from the appropriate state or interstate water pollution control agency in connection with the granting of a federal license or permit by a federal agency for the conduct of an activity that may discharge waste into the navigable waters of the United States (see p. 73–75)

Provide that in instances where state lacks authority to certify the Secretary of the Interior will provide the certification (see p. 73–75).

Provide that any activity which is under construction under a federal license or permit upon enactment of this legislation shall have two years to obtain a certificate, and if they fail to do so within that period of time the license or permit shall be suspended.

F The bill would also change the name of the Federal Water Pollution Control Administration to the National Water Quality Administration in order to provide a more protective emphasis to this very important national program (see section 8, p. 78).

Mr. Chairman, so that the amounts of funds involved will be clear, the following summary of the cost of the legislation will be helpful:

	Millions
Section 17(h)(1), which establishes a revolving fund for cleanup of oil and matter discharges by the United States	$20
Section 19(d) which provides for the research and demonstration program for the control of acid mine pollution	15
Section 23, which provides authorization for appropriations for the training of operators of waste treatment works	62
Section 5, which extends the research training and demonstration authority in Section 4 of the Water Pollution Control Act	130
Section 5, which extends the research authority of section 6 of the Water Pollution Control Act	120
Section 4, which extends the authority to conduct a study on the estuaries	1
Total	348

Mr. Chairman, we have come a long way in our struggle to preserve and protect, and even to rescue, the waters of this great country of ours. We have a long way still before us. This legislation represents effective further progress in critical areas. I cannot overemphasize the importance of enacting this legislation and getting on with the job.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman from our neighboring State of Iowa.

Mr. GROSS. Mr. Chairman, I thank the gentleman from Minnesota for yielding.

What is the total annual cost of this proposed legislation?

Mr. BLATNIK. The total cost would be approximately $348 million

over maybe 2 and up to 4 years.

Mr. GROSS. But the total annual cost is what?

Mr. BLATNIK. I cannot give the gentleman the annual cost, but the total cost. The authorizations and extensions will amount to $348 million over a period of at least 2 and in some instances perhaps up to 4 years.

Mr. CRAMER. Mr. Chairman, will the gentleman yield for further clarification?

Mr. BLATNIK. I yield to the gentleman from Florida, the ranking minority member of the committee.

Mr. CRAMER. Mr. Chairman, I think what the gentleman is saying is the total cost for the total period is $348 million. The annual cost is a revolving fund for oil pollution, $20 million for an indefinite period. That is the total cost of that program. It is a revolving fund. The amount for area acid and mine water pollution for 1 year is $15 million. The amount for training grants and contracts is $12 million. The amount for estuary research extension is $1 million. The amount for general research and for project research, two programs for 2 years, $250 million, which is the same level as in the present law. So the cost of the program is substantially less than that which we brought in last year, in that we eliminated the title of financing proposed for sewage treatment plants at this time.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. BLATNIK. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I believe section (d) is contained in section 17, Control of Pollution by Oil and Other Matter. I would refer the gentleman to page 43 of the bill, where it says:

> Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard—

And so on. There is an authorization of $20 million set up for the financing of this provision of the bill. Does this mean that the taxpayers of the country, in the case of an oil pollution occurrence such as that off the coast of California, could expend x number of dollars and recover none of the money that was expended? I see no provision in section (d) whereby the company or corporation polluting the water would be called upon to repay.

Mr. BLATNIK. Mr. Chairman, if the gentleman will turn to page 44—and this will be explained in complete detail by Mr. WRIGHT—and refer for the time being to page 44, lines 20 to 23, the gentleman will see it states:

> If the United States removes oil or matter which was willfully or negligently discharged by such owner or operator, the vessel and such owner or operator shall be liable to the United States for the full amount of the costs.

The United States can, therefore, recoup or claim whatever expenses are involved; this also applies to onshore facilities on page 46 and offshore facilities on page 47.

Mr. GROSS. This then is not confined to vessels, and it will go to oil wells such as were involved and caused the pollution off the coast of California?

Mr. BLATNIK. Those would be covered by this legislation.

Mr. GROSS. So the Federal Government can recover funds it has expended?

Mr. BLATNIK. Yes, sir.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman from Alabama, who has made outstanding contributions to this legislation.

Mr. JONES of Alabama. Mr. Chairman, I commend the gentleman from Minnesota and the other members of the subcommittee, who participated for the very deliberate way in which the hearings were held and the legislation was prepared. I am quite sure the House can take pride in the results of their work.

Mr. Chairman, I urge support of H.R. 4148 as an essential continuation for development of this Nation's water resources to benefit all the people.

We cannot ever overstate the importance of water resources to the development of our Nation. Without full and

[p. 9019]

proper attention to the water which we possess, we cannot hope to successfully reach the levels of attainment to which this Nation is dedicated.

Water pollution has resulted from man's misuse of his inheritance. President Lyndon B. Johnson stated well the problems which we face when he said:

> This is water that could be used and reused, if treated properly. Today it is ravaged water—a menace to the health. It flows uselessly past water-hungry communities to an indifferent sea.

Water is an invaluable commodity. However, most people simply take it for granted until the supply runs low in quantity or in quality. Unfortunately, this problem where it occurs usually stems from our mismanagement of the water quality.

The Congress has passed major legislation in this field on several occasions. In 1956 there was enacted into law the first comprehensive Federal Water Pollution Control Act. The Federal Water Pollution Control Act Amendments were passed in 1961 and were followed in 1965 by the Water Quality Act, in 1966 by the Clean Water Restoration Act, and now hopefully in 1969 by the Water Quality Improvement Act of 1969.

This legislation deals with the serious problems concerning the prevention and cleanup of discharges of oil and other matter from vessels and onshore and offshore facilities, the control of sewage and vessels, acid and other mine water control, the training of skilled and knowledgeable people to handle the modern sophisticated waste treatment works in our cities and industries, the effect of Federal activities and federally licensed or permitted activities on our navigable waters.

This legislation is good legislation, it is needed legislation. The committee has heard over the past 2 years representatives of all segments of our society, our governmental institutions, and our industry. It has taken testimony from Governors of large States, owners of small boats, representatives of international insurance associations, concerned citizens, and many, many others. The committee members worked long and hard to make the right decisions, and I believe they have succeeded. I commend the chairman of the Committee on Public Works, my close friend from Maryland, GEORGE H. FALLON; the gentleman from Minnesota, JOHN A. BLATNIK, and all of my colleagues on both sides of the aisle of this great committee.

Mr. Chairman, I urge the overwhelming passage of H.R. 4148 by all our colleagues in this great body.

Mr. BLATNIK. I thank my very dear friend, our able colleague, the gentleman from Alabama (Mr. JONES).

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not going to prolong the debate nor discuss subject matters other Members are going to discuss, in that this bill comes out of our committee unanimously, supported on both sides of the aisle, as it did last year and as it has traditionally in the past recent years.

Except for the fact that we eliminated the basic financing provisions relating to sewage treatment plants, this is a bill similar to the bill voted twice by this House unanimously last session. Unfortunately it did not become law because of the other body's unwillingness to accept the House position.

Frankly, I believe this is an instance where the passage of time is resulting in better legislation. This could be partially attributed to certain circumstances which have occurred, however,

such as the oil spill off the shore of southern California, which obviously alerted the American people to the risk involved.

Some of us had been attempting to alert the American people for some time relating to the possibility and the prospect of oil spillages of major nature. I recall a few years ago I and some others tried to alert this country to the risk involved, for instance, with respect to the sunken tankers, the possibility of the holds of those tankers, because of the extended period of time, rusting out, causing major spillages on the beaches in some areas of this country. I raised the necessity of trying to find out what those possibilities were, what could be done about them, and who should be responsible for the cleanup.

We have gone a long way, I will say, since that request for information. The *Torrey Canyon* incident has occurred.

We know this is an area in which there is a possibility of a major disaster in a given area. It has occurred off the coast of California. It has occurred in England. It has occurred on the shores of Puerto Rico.

So we feel it is a responsibility of the U.S. Congress to determine what is the liability of those who cause this risk. Therefore, this legislation is now before us.

I am happy to say also that this legislation is supported by the administration.

I am happy to say that the administration has been most cooperative, with our committee on both sides, in an effort to try to draft good legislation.

I want to say further that the Secretary of the Interior took immediate action. We called that to the attention of the House on October 7 and again on October 14, 1968, and, yes, to the attention of the administration, Mr. Udall, and called attention to the fact that he had authority, in entering into leases with these offshore drillers, to require that they accept absolute liability for such oil spillages off the shores of the United States and, yes, onshore, as a matter of fact, when it is Government-owned land.

The previous administration did not see fit to include this in the leases, despite the fact that on the floor of the House we called it to their attention and said this could be done.

I recall responding to a question by the gentleman from Massachusetts (Mr. KEITH), in the debate in the last session. I believe he asked, "What are you going to do about the offshore oil drilling and the risks which might be involved there?" I see the gentleman is on the floor. I congratulate him for his foresight, because he asked the question before the spillage took place in California.

At that time I stated, as I believed to be the case and as now proved to be the case, that the Secretary does have authority to restrict these leases under the law, and under his present authority for these offshore drilling rigs, to require them to accept responsibility for these spillages.

Secretary Hickel has seen fit to put this into effect, and I congratulate him for it. This legislation in no way infringes upon the authority which he is now exercising and, as a matter of fact, it permits it to go forward in the future as it has in the past.

Also, of course, we had to deal with the very difficult question of what do you do with on-shore facilities. I think the approach taken here is one that is logical and reasonable. It will not put anyone out of business and yet it will protect the people of this Nation with regard to oil spillages on shore. In federally owned lands, of course, they can do it under a lease authority. On privately owned lands, with private facilities, we had to try to find a formula.

It started out as an $8 million maximum liability formula. Obviously that was not the proper approach for a filling station or a boatyard which has

gasoline and oil for sale to boats, such as they do in many of the fishing camps in Florida. It is just not logical. There is no way in which they can issue that amount of liability. So we adopted a proposal which permits the Secretary to set up classifications of businesses which have risks of possible pollution where they deal with hazardous material.

There are some 200 such materials that are already defined by the Secretary under present regulations and it is contemplated that materials of that nature will be dealt with by the Secretary in those present regulations. This not only includes oil but many other materials. This legislation authorizes the Secretary to classify those businesses concerned with these materials to make certain that the public is properly protected up to a maximum limitation of $8 million. We think this is a logical and reasonable approach.

Last year, when we considered oil pollution legislation, there was insufficient time to consider the difference between offshore facilities under the complete control of the United States and offshore facilities under the control of the States. We concluded, after much study, that where the United States did not have full control of the licensing procedures, a maximum liability for cleanup of spills that would be realistic in face of available insurance would be $8 million per discharge. This figure is frankly based upon the insurance market as is a figure of $10 million or $100 per gross ton for cleanup costs of vessels.

There was considerable soul-searching as to whether or not the insurance industry should, in effect, control our oil pollution requirements. Many of us had reservations concerning this approach. Nevertheless, at the present time, it seems to be the only practical method by which we can assure reimbursement for Government expenditures in cleanup. To this end we have provided for a study to be made by various Federal agencies con-

[p. 9020]

cerned in cooperation with business, industry and all others that might be able to contribute to the solution of the problem. This study hopefully will provide us with information upon which to base future limitations of liability or financial responsibility requirements on all types of facilities—onshore, offshore, afloat, that may be responsible for the cleaning up of discharges.

In the area of onshore facilities, we were very concerned lest we imposed a burden upon the businessman that would drive him out of business. Again, we did not have available the information we would have liked—and that we would have had if our bill had passed last year—but we felt we could not forebear from acting at this time. Consequently, we have included all onshore facilities within the purview of the act. In order to preclude hasty action and to preclude forcing the business owner to guess whether or not he was required to insure himself under the act, we have provided that no facility is included until the Secretary of Interior shall find that it is included. This is to give the businessman, and in particular the small businessman, a chance to be heard and to protect himself against crippling loss.

At this point, perhaps it is well to make absolutely clear that the committee's intention is not to force upon the businessman the closing of his business or bankruptcy because of our requirement of responsibility for discharge cleanup. Neither is it in other provisions of this bill the intention of the committee to destroy lawful activities now enjoyed by the citizen. Thus, in our vessel pollution bill, which I will discuss in a moment, it is not our intention to drive the boatowner off the water. Indeed, we wish to emphasize that the agencies that administered the provisions of this bill are zealous

in the protection of all citizens, including those directly affected by the provisions of this bill.

Recognizing that our knowledge will increase with time and recognizing the need to accelerate the gathering of knowledge in certain areas pertaining to pollution, the bill directs the Secretary to study further methods of cleanup and the prevention of oil spills.

Now all this legislation in the area of oil pollution would be meaningless if we did not provide the tools by which these spills could be arrested and cleanup accomplished. Accordingly, we have called for a revolving fund to be established for the purposes of accomplishing cleanup.

If the gentleman will permit me, I will be glad to answer any questions in just a moment. Let me say now that this is the approach we took with regard to that problem.

On control of sewage emanating from vessels, we believe that the approach here is a reasonable one. This bill goes further—and I want to make sure that this is clearly understood—this bill goes further than the bill we had last year. One reason for that is that we have more experience and have gone into more areas, so we were able to do an even better job. Therefore we have provided for certain requirements relating to marine sanitation devices which are required of all vessels where such toilet facilities are built in or where they have such facilities built in in the future. Also we provided logically for the departments and for the legislatures of States to come up with a proper approach by providing ample time for them to do this.

We gave present boatowners who have sanitation facilities in present boats 5 years to conform to these requirements. As to new vessels it gives 2 years and prolongs the standards for that period of time in order to allow them to conform.

I just mentioned the control of sewage from vessels. Here again was an area of great difficulty. The testimony and evidence that we had before us was such that several members of the committee did not feel confident that small recreational craft made a substantial contribution to the pollution of our waters. Nevertheless, it appeared clear that it would be unwise to withhold legislation until such time that a convincing demonstration of pollution could be made. To a large extent, the vessel pollution provisions, which deal solely with sanitary sewage—that is human waste—will be what I would call a prophylactic prevention of future pollution.

We recognized that at the present time our technology is such that there is no effective practical solution for the treatment of sewage on small vessels. Even in large vessels the problem is difficult. Consequently, we have chosen to demonstrate our concern for this problem at the present time by requiring the Secretary of Interior to conduct such research as would be necessary to develop suitable marine sanitation devices, including perhaps chemical or biological treatment. We have required that the results of this study be furnished to the Congress prior to the effective date of standards for marine sanitation devices to be promulgated under this act.

Based upon the information available to him from all sources, including his research program, the Secretary of Interior is to issue Federal standards of performance for marine sanitation devices. In doing so, he will take into account the technology available and the economics involved. The bill takes into consideration the problems of existing vessels as opposed to vessels constructed after issuance of standards and regulations by the Secretary and by the Secretary of Transportation. The initial standards shall not be effective for new vessels until 2 years after promulgation and no earlier than December 31, 1971. In the case of existing vessels, they will have 5 years to

comply. Broad authority is given to the Secretaries to classify vessels and distinguish between them so that their different characteristics, practices and use may be taken into account.

In order to assure that the interests of the vessel owner are fully considered by the Secretary, requirement that section 4 of the Administrative Procedures Act apply to the issuance of standards and regulations is included.

It was forcefully brought to our attention by many witnesses that a burden upon the passage in interstate commerce of vessels has been imposed as the result of differing States imposing differing standards for marine sanitation devices. Thus, a boatowner in compliance with the laws of his own State where his boat is registered will find himself in difficulty if he enters the waters of another State having differing requirements. We, therefore, have chosen to preempt from the States the adoption or enforcement of any statute or regulation with the respect to the design, manufacturer, or installation of a marine sanitation device on a vessel. Recognizing that there are circumstances under which a State may choose to prohibit discharge of sewage, whether treated or not, from a vessel, the right of a State to make such prohibition is protected. In order to prevent inequities, however, the bill permits prohibition by a State of such discharges only if discharges from all other sources are likewise prohibited in such waters. Thus, the very justifiable complaint of boatowners that we have all seen appearing in boating magazines and newspaper columns to the effect that the small boatowner should not be required to carry his sewage aboard while his boat is sailing through waters befouled with filth from the land is recognized and dealt with.

The enforcement of the marine sanitation device provisions seems to us to depend upon two areas. The first, to stop the manufacture of devices which do not meet the standards that will be developed and promulgated by the Secretary of Interior and the Secretary of Transportation. The second is to prevent unlawful discharges by the vessel. Consequently, penalties are provided to punish the selling or distributing of vessels not equipped with a necessary sanitation device and to punish unauthorized discharges. Vessels that are too small or have some reason to not spend extended periods of time on the water so that installed toilet facilities are not on board are not required to have marine sanitation devices. Nor is it our intention to leave to the State the prerogative of requiring such vessels to install toilet facilities with marine sanitation devices.

We think that this is a sound approach and will leave the administration where it belongs, in the Coast Guard. We do not want to erect a separate department of the Interior or department of the Navy in order to police these regulations, so we leave the administration and jurisdiction of them where they belong, just as it was in the bill last year, in the Coast Guard. I understand the Coast Guard is in full support of this legislation.

Now, Mr. Chairman, one section that I will take up for just one moment relates to the amendment which is now a part of this legislation similar to the bill a number of us introduced here, H.R. 8516, dealing with training of personnel. We will never solve this problem if we do not have people who are qualified actually to administer the program. This has been an area of weakness for some time, but it is an admitted area of weakness.

As a matter of fact, the other body had lengthy studies relating to this, and in the 90th Congress, Senate Document 49, entitled "Manpower and Training Needs in Water Pollution Control" which was published in August 1967, this docu-

[p. 9021]

ment called attention of the Congress

to the very dire need for trained personnel at all levels in order to accomplish water pollution control programs and to say to the States that they have to have this and say to the States that they have to have that and that they are going to have to have standards and they will have to conform to those standards.

We will have to have money available for sewage treatment plants and faced with the finding of fact that the personnel with which to accomplish this objective do not now exist is to ignore one of the necessities in reaching a sound solution to a very serious problem.

Mr. Chairman, I am happy to report that the committee adopted, again unanimously, an amendment which I think represents a sound approach and which, in effect, amends the present law to provide for funds for the training of personnel, for tooling up the university systems and encouraging them to go into this field of clean water and to become qualified from an instructional standpoint to turn out the personnel to do this job in the future.

Mr. Chairman, rather than spend the time of the Committee in discussing it in detail, I shall place the justification for that in the RECORD:

MEMORANDUM ON MANPOWER AND TRAINING FOR WATER POLLUTION CONTROL

Early in the history of water pollution control legislation, the need for training of qualified personnel was recognized and provided for by statute After the transfer of the Federal Water Pollution Control Administration from the Department of Health, Education and Welfare to the Department of Interior, an extensive study was conducted by that Administration concerning manpower needs for water pollution control. The results of this study were published as Senate Document #49 of the 90th Congress entitled "Manpower and Training Needs in Water Pollution Control." Published in August of 1967, the document called the attention of Congress to the need for trained personnel at all levels to accomplish our water pollution control program.

TABLE I.—ESTIMATES OF MANPOWER REQUIREMENTS

Fiscal year 1967				Fiscal year 1972								
				Professionals			Technicians			Sewage treatment plant operators		
Employers	Professionals	Technicians	Sewage treatment plant operators	Estimate	Increase	Percent increase	Estimate	Increase	Percent increase	Estimate	Increase	Percent increase
State agencies	1,368	317	....	3,422	2,054	150	980	633	208	. .	.....	.
Local agencies ..	2,250	2,250	20,000	5,550	3,250	144	5,500	3,250	144	30,000	10,000	50
Subtotal [1] ..	3,600	2,600	20,000	9,000	5,400	150	6,500	3,900	150	30,000	10,000	50
Industrial waste treatment	1,700	1,700	3,500	6,000	4,300	253	6,000	4,300	253	12,000	8,500	243
Consulting engineers [2] ...	6,000	6,000	.....	21,000	15,000	250	21,000	15,000	250	..	.....	
Total [1] 11,300		10,300	23,500	36,000	24,700	219	33,500	23,200	225	42,000	18,500	30

[1] Numbers are rounded.

[2] Estimated by Black & Veatch, consulting engineers.

On page 15 appears Table 1, "Estimates of Manpower Requirements." The increase in sewage treatment plant operators estimated to be required by fiscal year 1972 over that required in fiscal year 1967 was 10,000. Granting that the need for trained operators will be determined to a large extent by the rate by which sewage treatment plants are completed, the report notes that the demands for operating personnel lag well behind construction appropriations, while the demands for design personnel are more immediate. (P. 14). In addition, this increase is based upon an estimate by the Water Pollution Con-

trol Federation that the number of operators employed at the time of the report was 20,000 The FWPCA estimated that only 16,500 operators were employed at the time The estimated need for 1972 is 30,000 operators. If the FWPCA estimate is correct, the increase in operators would be 13,500 The report gives no figures for replacement of personnel due to death, retirement, or transfer of employment outside the field because accurate turnover rates were not available

Table 1 of the report indicates that an increase of 8,500 industrial waste treatment plant operators will be required In addition, an increase of 3,900 technicians will be needed for state and local agencies and 4,300 for industrial waste treatment The state and local agencies will need an increase of 5,400 professional personnel, and 4,300 more industrial waste treatment professional personnel would be required.

One very interesting figure deals with professionals who operate as consulting engineers The 1967 estimate based on figures by Black and Veatch, Consulting Engineers, indicates that 6,000 consulting engineers were available for consultation in the field in 1967 and that 21,000 would be needed by 1972—an increase of 15,000. It's estimated that for technicians working with professional consulting engineers, an increase from 6,000 to 21,000—that is an increase of 15,000—is required

During testimony before the Committee on Public Works of the House of Representatives on Thursday, March 6, 1969, Allen R Voss, Assistant Director of the General Accounting Office, pointed out that the Federal Water Pollution Control Act requires that no grant shall be made for any project until the applicant has provided for ensuring proper and efficient operation and maintenance of the treatment works after completion of construction. In other words, *under the law a grant depends upon the availability of trained personnel who can effectively carry out efficient operation and maintenance*

The GAO investigation of various aspects of the implementation of water pollution control legislation was, at the time of Mr Voss' statement, still in its early phases Nevertheless, the following paragraphs quoted from Mr Voss' statement indicate the need for activity:

"In examining into the operation and maintenance of treatment plants, we are using as criteria the minimum requirements for personnel, laboratory controls, and records established by a conference of State Sanitary Engineers in cooperation with the Department of Health, Education, and Welfare in 1963

"We are finding, generally, that these minimum requirements are not being met. For example, on the basis of a review of 20 operation and maintenance reports in two States, we believe that 17 plants did not meet the minimum requirements Thirteen of the 20 did not meet minimum personnel requirements, 15 of 20 did not meet minimum laboratory requirements, and seven of 20 did not meet minimum records requirements. In our opinion, 11 of the 20 plants were strongly deficient

"During one of our on-site inspections of a treatment plant, we found that the plant was shut down and that no operator was available State representatives accompanying our staff members stated that the plant had been shut down for about a month In another instance, a review of FWPCA files showed that FWPCA, in its inspection of a plant in September 1968, noted a number of deficiencies among which was the fact that the plant did not have a full-time operator and daily operating records were not being maintained We could not find evidence that these deficiencies had been brought to the attention of the State * * *

"In February 1969, staff members of our office accompanied by a state representative found that the plant still did not have a full-time operator and that daily operators were still not being maintained. * * *"

Following is a colloquy between Congressman William H Harsha and Mr Voss, during the latter's testimony before the Committee.

"Mr HARSHA Now, do you know or have you had an opportunity to make this determination, whether or not we have the engineering potential in this country to design and construct the municipal treatment plants that could be built if the whole billion dollars authorization by fiscal year 1970 were appropriated?

"Mr Voss No, sir, we have not done a thing in that area I know, just recently, we talked to an official in the FWPCA, and this is something that he said that possibly that agency may consider doing.

"Mr HARSHA Apropos to the same question about available personnel and professional people, is it not a fact that one of the problems is this dearth of trained personnel, scientists, water quality men, even technicians and operators of plants, is that not so?

"Mr. Voss. Yes At least at a number of the plants that we have visited—it does not seem that the operators have been trained as well as they could be There is a lack of laboratory testing There is a lack of keeping of records And if you do not keep these records on the tests, that supposedly you are making, it is very difficult for anyone to determine whether or not that plant is operating to the design capability You do not have on record the water and sewage going into the plant, and that going out of the plant.

"Mr HARSHA. Well, is this due to the lack of efficiency of the personnel there or due to

the lack of sufficient personnel?

"Mr. Voss. I would say both.

"Mr. HARSHA. And, as a matter of fact, have you not found that a number of plants are not operating at capacity?

"Mr. Voss. This, but what we are finding, offhand, I cannot say how many.

"I might mention, Mr. Congressman, we have figures which are estimates as to the number of operators you are going to need to operate these plants by 1972, and it is a tremendous increase in the next 4 or 5 years They are just estimates, but it is the best we have available and it is jumping from about 23,000 to 43,000 or 44,000."

In order to combat this dearth of personnel, the Federal Water Pollution Control Administration has used three approaches Two of these involved joint federal agency efforts with the states working through the regional office of FWPCA The third is to secure adequate appropriations directly to FWPCA to support training contracts.

[p. 9022]

At this point, it is well to review the sections of the Water Pollution Control Act, as amended, applicable to training Section 5 of the Act deals with research, investigations, training, and information Subsection 5(a)(2) authorizes the Secretary of Interior to make grants-in-aid to public or private agencies and institutions and to individuals for research and training projects and for demonstrations, and provide for the conduct of research, training and demonstrations by contract with public or private agencies and institutions Subsection 5(a)(4) authorizes the Secretary to establish and maintain research fellowships in the Department of Interior with stipends and allowances, including travel and subsistence expenses. Subsection (5)(a) authorizes the Secretary to 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

In addition, under the Secretary's authority for grants for research and development included in Section 6, the Secretary may make grants to those engaged in research, including, but not limited to, those attending recognized education institutions.

Appropriations for Section 5 purposes have been as follows:

	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970 [1]
Grants for training	$3,667,000	$3,400,000	$3,980,000
Research fellowship	633,000	600,000	600,000
Federal technical training and administration	637,000	804,000	1,006,000
Graduate and special training	251,000	258,000	258,000
Total	4,888,000	5,062,000	5,844,000

[1] Requested by Johnson administration

According to figures received from the FWPCA, the Division of Manpower and Training has training grants of $3,400,000 available for the training of approximately 500 trainees in FY 1969 $600,000 will be distributed amongst 101 research fellows For FY 1970, the FWPCA estimates that $3,980,000 will be spent for training grants to train approximately 700 trainees FWPCA short courses for those actually employed in water pollution control activities are scheduled to train 1,465 trainees in FY 1969 and 360 trainees in FY 1970.

The FWPCA was awarded a contract by the Department of Labor on January 21, 1969, to train waste treatment plant operators. When augmented by funds from the Department of Health, Education and Welfare a total of $1,032,000 will be available. The program will involve approximately 800 operators in 10 urban and 10 rural projects. The states of New York, New Jersey, Pennsylvania, Maryland, Ohio, Michigan, Illinois, Iowa, Texas and California are receiving initial consideration as potential project sites All trainees will be selected by the management of waste water treatment plants from the employees engaged in this work. There is no tuition fee.

The project, established under authority of the Manpower Development and Training Act will be administered by the Division of Manpower and Training of the FWPCA as a prime contractor. Training and supervision will be handled through subcontracts with municipalities or waste treatment districts with oversight by FWPCA regional offices. The length of the course is 44 weeks or 1760 hours, and includes 20 weeks or 800 hours of full on-the-job training and 630 hours of part-time on-the-job training

In the area of federal-state cooperation, FWPCA has joined the cooperative area manpower plan system (CAMPS). The importance of this program to water pollution control is that it provides the first opportunity for training of those who are not currently employed as operators in water pollution control and envisions training of the unemployed seeking a place in that field. It does not, apparently, consider the training of personnel already employed in other fields for transfer to water pollution control work.

As commendable as the efforts of the FWPCA are, it is clear that there are two major deficiencies. One is obviously the numbers involved

If we add together all those who receive any training under the programs discussed

above, they come to well under 2,000 for FY 1969. Practically all of these are already employed or engaged in the water pollution control field. Practically nothing is being done to eliminate the great gap between available personnel and personnel required for the operation of treatment plants Another defect is the failure of any program to look to other fields for personnel to be transferred into the water pollution field. No inducements are set forth for the competent intelligent person to consider transferring his activities to water pollution control.

The purpose of H R. 8516, which has been incorporated by the Committee into H.R 4148, is to provide inducements to those not in the field of water pollution control to enter it and to induce those already within the field to achieve a greater degree of competence and to remain in this work. In order to do this, it would make available to interested students scholarships and stipends now available primarily for those in the professional level A student who wishes to become a sewage treatment plant operator may do so while receiving a stipend, which, to some extent, would accommodate him for his loss of income during his period of study Thus, the individual student would receive an inducement to come into the field, which he otherwise could not afford to enter.

An estimated average of $1,000 a year per student at all levels was used in calculating the total amount authorized This figure was derived from information based upon the needs of community colleges which either have or are developing training programs for operators

Assuming a need for 10,000 more operators within the next three years and assuming an average training program of two years, $20,000,000 would be needed for the training of operators over the next two years Applying a loss factor used by the FWPCA of approximately 25% for students who would, for one reason or another, be unable to complete the program, the program should cost approximately $24,000,000 for the first two years This figure is restricted strictly to training persons required by state and local agencies for municipal operations and does not provide for training industrial waste treatment plant operators In order to compensate for an expected lag in the administration of the program, selection of students, and completion of construction of necessary facilities, $8,000,000 is suggested for the first year's appropriation for operational training and $16,000,000 for the second year's operational training The same figure is suggested for the third year for the increased number of students anticipated to fulfill the needs of increased sewage treatment plant construction, for those students who will need to receive advanced training, and for those students who must take three years to complete their training program rather than two. Similarly, figures are derived for state and local professionals at $3,000,000 for the first year and $8,000,000 for each of the second and third years For the training of technicians, $1,000,000 is needed for each of the three years The number of technicians required for local and state agencies is much smaller than the number of operators required, and the cost of their instruction is estimated at somewhat less This leads to a total of $12,000,000 for the first year and $25,000,000 for each of the second and third years

Now, what would be the effect of cutting any of these figures? The immediate effect would be that the state and local agencies will not be able to acquire the personnel that they will need to administer their programs and to evaluate their projects. Because of the scarcity of professional personnel, salaries offered by consulting engineer firms and by industry will be more attractive than state and local employment which can lead to the absorption by those groups of the professionals who do finish their training without federal assistance Even so, the number of people absorbed by the consulting engineer firms will still be inadequate to accomplish the design engineering necessary for project development and evaluations Consequently, a reduction of funds for the professional training part of the program will lead to an immediate impact upon the design and administration levels Reduction of funds for that portion of the program dealing with operators and technicians will not lead to a loss that will be felt immediately However, upon completion of construction of treatment works, the works will be maloperated or not operated at all, as indicated by Mr Voss' testimony

Mr. McCARTHY. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. Yes, I yield to the gentleman from New York, since I promised to yield to him first.

Mr. McCARTHY. The gentleman from Florida (Mr. CRAMER) alluded to the new Secretary of Interior.

Mr. CRAMER. Yes.

Mr. McCARTHY. As a Member on this side of the aisle, I would like to identify myself with the remarks that the gentleman from Florida has made about the new Secretary of Interior. I was one, at the time that he was being considered for confirmation, who seriously questioned whether, by virtue

of his background, experience, and public statements, he could actually be a good modern Secretary of the Department of Interior.

I must say in all fairness that I have been impressed with the new Secretary with reference to the American Indian, with reference to wildlife, the national parks, and certainly, on this matter of oil pollution. I think he has shown vigor and determination and, frankly, I have been pleasantly surprised to find the qualities which he has exhibited. I think Mr. Hickel's record thus far has been commendable.

Mr. CRAMER. I thank the gentleman very much. The gentleman's hindsight is very excellent I will say.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman from Florida for yielding. In several places in the bill there is the language —"Secretary of the Department under which the Coast Guard is operating."

Mr. CRAMER. Where is the gentleman reading?

Mr. GROSS. Page 44, line 14, but it also appears in a number of other places—"Secretary of the Department in which the Coast Guard is operating."

I am just curious to know why this language is contained in the bill.

[p. 9023]

Mr. CRAMER. To make sure that the Coast Guard itself in no matter which Department it is presently operating continues to have jurisdiction over this enforcement.

Mr. GROSS. I thought there might be some question about where the Coast Guard would be located.

Mr. CRAMER. There is no question.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from New Jersey.

Mr. HOWARD. As has been true in the past, the Coast Guard has been in the Department of Transportation, but in wartime it may be under the Department of Defense.

Mr. CRAMER. That is right; the gentleman is correct.

Mr. GROSS. Mr. Chairman, if the gentleman will yield further, on page 42, line 19, there is the language "—by action in rem—" What is the meaning of that?

Mr. CRAMER. Action against the vessel.

Mr. GROSS. Action against the what?

Mr. CRAMER. The vessel.

Mr. GROSS. Action against the vessel?

Mr. CRAMER. In rem is an action against the vessel itself—action against the property, a concept permitted by the law of admiralty.

Mr. GROSS. I am glad to have the gentleman's explanation.

Mr. DENNEY. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman.

Mr. DENNEY. Actually, an action in rem is the phraseology which means action against the thing. It means that you get a judgment and a lien against a vessel and you foreclose on this lien.

Mr. CRAMER. The gentleman is absolutely correct. He sounds like a legal professor, and I thank the gentleman for his response.

Mr. GROSS. Is it proposed in this bill to go into more brick and mortar in order to provide for research laboratories and further research in this field?

Mr. CRAMER. No. It is my understanding that this is a technical type of research dealing with individuals, equipment, et cetera, and not buildings.

Mr. GROSS. Are there any other areas of government expenditures for this same purpose?

Mr. CRAMER. Not to my knowledge, I will say to the gentleman, we certainly would not try to duplicate

expenditures. I might add to the gentleman that this is an ongoing research program, this is not new. This is a program that is presently in existence. This is a continuing authorization at exactly the present level.

Mr. GROSS. If the gentleman will yield further, to the knowledge of the gentleman there are no other areas of government in which money is being expended for the same general purposes as envisaged in this bill?

Mr. CRAMER. I would not support a duplication if I were aware of it, I would say to the gentleman.

Mr. GROSS. I thank the gentleman.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I appreciate the gentleman yielding, and I appreciate the statements that the gentleman has made, and the functions performed.

I rise simply for a point of clarification in the text of the bill.

Mr. Chairman, I am referring now to section 11, part (b).

Mr. CRAMER. Does the gentleman have the page number in the bill?

Mr. HALL. This is on page 74.

My query is simply as to whether or not, in fact, it does not give the various States of the Union certification power for permits in the first part of subsection (b), and in a later portion gives certification authority to the Secretary?

Mr. CRAMER. Let me say to the gentleman that this does not do so. It does provide for certification by the Secretary when the State cannot certify because it has no authority or certification procedure established. Once the State established has a certification procedure. In fact, if the States cannot certify, then the Secretary comes into play, but it is contemplated that the States will do the initial certification.

Mr. HALL. I understood that, if the gentleman will yield further, from the earlier part of the bill and from reading the report, but I am not quite sure about the language. Do I understand that the gentleman agrees that it might be clarified either by an amendment, or legislative history?

Mr. CRAMER. That is a matter that is under consideration now. I will be glad to clarify it further on the record as consideration of an amendment in this area is given, if the request for it is made.

Mr. HALL. I appreciate the statement made by the gentleman, and if the gentleman would refer then to page 59, has any consideration for the purpose of clarification been given to eliminating lines 8 and 9? That is where it says that "nothing in this section shall be construed to affect or modify the authority or jurisdiction of any State to prohibit discharges of sewage whether treated or not from a vessel within all or part of the intrastate waters of such State"?

It might be suggested that it stop right there, but instead the language goes ahead and says "if discharges from all other sources are likewise prohibited."

I am just thinking of State jurisdiction versus Federal jurisdiction in our offshore waters, estuaries, or navigable streams.

Mr. CRAMER. This deals with intrastate waters. I believe the language as presently in the bill accomplishes what should be done as it relates to intrastate and not interstate waters. And it is on the basis that if discharges from other sources are likewise prohibited, it would be so controlled. Of course, once the statute goes into effect the vessels could only discharge adequately treated sewage in any case.

Mr. HARSHA. Will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Ohio.

Mr. HARSHA. This is a position that was brought out by representa-

tives of the boat industry where the boatowners have complied with all regulations of the State as covering discharge into State waters, and yet they found that they could be prevented from making such distribution or discharges while other users of water were entitled to discharge polluted material into the water. They felt that because of the different changes in regulations from State to State that this was imposing an undue burden upon them where other pollutants were permitted to go into the water.

Mr. CRAMER. That is what I have tried to say to the gentleman, that where there are other discharges permitted into intrastate waters by the States, it does not make sense to control this aspect of it until they control the entire pollution problem.

Mr. HARSHA. There was considerable question as to whether or not the discharge from private sources was in fact a part of this program, or to any degree, and that is why we put this provision in.

Mr. CRAMER. I will say to the gentleman, this will cause no problem of pollution in my opinion in those areas where they are not presently controlled by the State.

Mr. HALL. I thank the gentleman. I think this is an important legislative record, and I understand the phrase "all other sources" is not predicated upon jurisdiction——

Mr. CRAMER. That is correct.

Mr. HALL. But, is predicated upon the sources of discharge.

Mr. CRAMER. That is correct.

Mr. HOWARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman and my colleagues, I rise in support of the pending bill, H.R. 4148, the Water Quality Improvement Act of 1967. I urge its approval.

I want to commend my colleagues on the committee for this piece of legislation. It is farsighted legislation. It breaks new ground.

Particularly I want to call attention to section 2 which adds an entirely new section to the Federal Water Pollution Control Act. The new section deals with the control of pollution by oil and other matter. This is a far-reaching provision—a strong provision. By any standard, it is a tough provision. If we err, I think it would have to be said that we err on the side of strength.

This provision with respect to oil pollution goes much farther than we have ever gone before. It provides stiff penalties for negligent pollution of the shores or waters or beaches of this country. Further, it establishes direct responsibilities for swift action to clean up these spills.

It makes those who pollute responsible for cleaning up the damage that they cause. It creates a machinery for the Federal Government to conduct the cleanup operation expeditiously if the polluter does not have the technical capability to do it. But in this case it

[p. 9024]

places the financial burden of the cleanup on the polluter if his actions were either willful or negligent.

In addition, it provides rather stringent civil penalties to be imposed upon the willful or negligent polluter.

The recognition of oil and other hazardous matter as potentially serious water pollutants is not new. As long ago as 1886 the Congress recognized the need to control discharges in navigable waters in New York Harbor, and in 1899 the Congress enacted the Refuse Act, administered by the Corps of Engineers, to apply to both vessels and shore-based facilities with respect to almost every discharge into navigable waters except that flowing from streets and sewers. The need for control of oil was specifically recognized in the Oil Pollution Act of 1924.

However, several recent instances

such as the breakup of the tanker, *Torrey Canyon*, off the coast of England and the misfortune of the SS *Ocean Eagle* off the Puerto Rican coast, and most recently the despoliation of California beaches by oil from an offshore drilling rig, have indicated to us that we need the capacity to do much more than the Oil Pollution Act of 1924 permits.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Mr. Chairman, with great pleasure I yield to my colleague.

Mr. TEAGUE of California. As the gentleman knows and as other members of the committee know, I have been very much concerned about this problem because Santa Barbara is in my congressional district.

Almost a year ago I introduced a bill very similar to the one that has now been approved by your committee and again this year I introduced a similar bill.

At this time I would like to voice my complete support for the bill now before us and commend the committee and thank all the members of that committee for their good judgment in bringing this bill before us today.

Mr. WRIGHT. I wish to express my appreciation, and I am sure that of the entire committee, not only for the comments made on the floor today by our distinguished colleague from California (Mr. TEAGUE), but for his constructive contributions and his longstanding interest in this matter evidenced by his frequent appearances before our committee when we were considering these bills. He has indeed made significant contributions to the considerations of the committee, and much that is in this bill has been influenced by the interest expressed by the gentleman from California (Mr. TEAGUE).

The Oil Pollution Act of 1924 does not adequately meet present day needs. That Act applies only to discharges and to spills that are caused by gross negligence or willful conduct. It applies only to vessels. It does not apply to spills from fixed installations, either onshore or offshore, such as pipelines, refineries, manufacturing plants of various types and other kinds of industrial activities that use and store large quantities of oil. The Oil Pollution Act of 1924 is confined solely to oil spillage. It provides no protection whatever against other potentially hazardous substances, of which there are many, as the gentleman from Florida has pointed out, more than 200 of which have already been officially identified. In short, we believe that H.R. 4148 does effectively deal with this serious problem and plug up the gaps that were left in the Oil Pollution Act of 1924.

This legislation addresses itself not only to the prevention of such disasters but also to the methods of cleaning them up and abating them once they have occurred, as regrettably they will occur, in such a way as to prevent further ecological damage and impairment of environment.

In the area of oil and other hazardous pollutants, the bill before us applies to discharges of oil and other hazardous and harmful matter, which is very broadly defined in the bill, into the navigable waters, the contiguous zone, and the high seas from vessels, and it applies to discharges from both onshore and offshore facilities.

The bill requires that immediate notice be given of all discharges of these substances in any substantial quantity by individuals in charge of a vessel or onshore or offshore facility. It requires that such notice be given either to the Secretary of the Interior or to the Coast Guard. This, of course, permits immediate remedial action. It allows us to accomplish the appropriate steps to remove the discharged oil or matter as expeditiously as possible. The bill provides penalties up to $5,000 or 1 year in prison or both for failure to comply with this notification requirement.

The bill strictly prohibits the dis-

charges of oil and matter from vessels except in emergency situations or except where it is permitted by international convention. It establishes civil penalties for violations of this section in an amount up to $10,000 if the discharge was willful or negligent.

It directs that the United States remove or arrange for the removal of any oil or matter that is discharged into any water or onto any shoreline or beach when, in the judgment of the Secretary of the Interior, such discharged oil or matter presents an actual or threatened pollution hazard. The United States would exercise this authority, of course, only if it is determined that the owner or the operator of the vessel or facility has not made adequate arrangements to complete the removal of the oil or the other hazardous matter as required by the bill.

The bill authorizes the United States to remove or destroy a vessel in the navigable waters when a marine disaster creates a substantial pollution threat to the United States.

In those cases the cost of removing the vessel would be levied against the vessel, its cargo, and the owner or operator of the vessel where it can be established that the negligent operation of the vessel caused or contributed to the marine disaster.

The bill requires the owner or operator of such a vessel or of an onshore or offshore facility to remove the discharged oil or other harmful matter immediately, or to pay for the cost of removal up to the limits of liability provided in the bill if the United States takes that action.

The bill does provide for limitations of liability to the United States for the cost of removing or cleaning up. In the case of a vessel discharging oil or pollution into the water, the maximum limit of liability is $10 million or $100 per gross registered ton, whichever is the lesser. This is substantially more than our experience thus far has indicated that any cleanup has cost, and we believe by reason of this limitation that we have adequately protected the United States.

The committee heard in its hearings representatives of the insurance industry, some of whom came all the way from Great Britain to testify for us. Those representatives of groups insuring some 80 percent of the free world's shipping tonnage discussed with us their thoughts as to what the maximum insurable liability would be. We have tried to take their knowledgeable testimony into account.

With regard to onshore and offshore facilities—fixed installations as distinguished from moving vessels—the bill provides an $8 million maximum liability limit for costs assumed by the United States in cleaning up the spills. This was a particularly difficult and in some respects a very delicate determination. Obviously it is much too high for most situations encompassed in the scope of the bill. The committee is conscious of the fact that when we begin to apply a liability upon onshore facilities that may spill various pollutants into navigable waters of the United States, then we apply that liability against almost countless numbers of large and small enterprises that exist on the banks of the small streams that flow into the navigable waters of the United States.

I would imagine that, in almost any congressional district represented here, there would be several hundred enterprises, large or small, which would come under the liability provided in this bill. Therefore, so as not to provide an unworkable or an unnatural liability upon a relatively small business institution, we provided in the bill that the Secretary of the Interior shall establish by regulation, in consultation with the Secretary of Commerce and the Small Business Administrator, reasonable and equitable classifications of onshore facilities and activities, and that he will then apply to such classifications differing limits of liability,

which in many cases will be very considerably less than $8 million.

Everyone can understand that for many thousands of businesses it would just be absolutely impossible for them to gain any sort of indemnification through insurance or otherwise for a loss up to $8 million. Therefore, it is anticipated by the committee that classifications would take into account the type and size of the businesses involved as well as their capacity to inflict pollution damage.

The bill establishes a $20 million revolving fund which will be discussed at greater length by our colleague from New Jersey (Mr. HOWARD)—who incidentally has probably visited more oil spills personally than any other Member of this

[p. 9025]

House. This $20 million revolving fund will allow the President to delegate the authorities to perform an immediate cleanup if it is necessary for the Government to act before waiting until it becomes a serious hazard to health and property.

The bill requires proof of financial responsibility for all vessels over 100 gross registered tons and for barges of equivalent size, which would become effective 1 year after the enactment of the bill.

Mr. Chairman, as one who has fought for effective pollution control legislation for years, I believe this is a long step forward.

As regards oil pollution and pollution by other hazardous substances, this is a landmark piece of legislation. There can be no doubt that it is strong legislation, very strong legislation.

As I said earlier, if we err then we err on the side of strength and on the side of protecting the United States and the people of the United States.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield with great pleasure to a distinguished member of the committee, the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. I rise at this time to ask the distinguished gentleman from Texas a series of questions in order that we may make some legislative history.

As the gentleman knows, section 17 deals not only with the problem of oil and oil pollution, but also with the problem of hazardous matter. In that relation I should like to ask the gentleman: Is it intended that section 17 of the act will in any way permit the Secretary to list substances and concentrations in any orders defining "matter," to permit the Federal Government to bring pressure on any person to discourage him from discharging substances, where such substances, concentrations and discharges are within the limits of the water quality standards of the appropriate State?

Mr. WRIGHT. In answer to the gentleman, I would say section 17 is in no way intended to alter the State's water quality standards or its enforcement of them. If there is a situation in which a material which becomes classified as "matter" under section 17 is officially permitted to be discharged under the State's enforcement program, then obviously the State's determination in this instance would be controlling. The intent of this legislation is to provide a much needed tool to combat the effects of sudden spills which, if unreported, might cause serious damage and which must be cleaned up in order to preserve our waters.

Mr. HARSHA. I thank the gentleman. Will the gentleman yield further?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. HARSHA. May I ask the gentleman this question: Is it intended that any action will be taken against any person for failure to report a discharge under section 17(b) where the substance discharged has not previously been listed in an order promul-

gated under administrative hearing processes as presenting an imminent and substantial hazard to public health or welfare?

Mr. WRIGHT. The answer to that question is "No." Obviously, until such time as the Secretary promulgates regulations, as clearly contemplated in the bill and directed in the committee report, on page 9 of that report, no person could be expected to know what material would be included on the Secretary's list as hazardous matter, and consequently no prosecution under section 17(b) relating to "matter" as distinguished from oil could be undertaken prior to the publication of the Secretary's list.

As the gentleman is quite well aware, we have been extremely broad in our definition of what constitutes "matter." I might refer to the bill, which defines "matter" as meaning any substance of any description or origin which, when discharged into the navigable waters in substantial quantities, presents, in the judgment of the Secretary, an imminent and substantial hazard to public health or welfare.

Now, there are certain substances exempted by specific reference from this definition, but the definition of course is so very broad that the committee thought it necessary to take note in the committee report, as it does on page 9, of the expectation that the Secretary shall with care compile a specific listing of what constitutes harmful matter.

The committee report declares that the Secretary will be expected to publish a list from time to time of the types of substances included in this definition in order to inform the public in accordance with standard administrative procedures. So, until the Secretary has done that, of course, no prosecutions under that section could be undertaken.

Mr. HARSHA. I thank the gentleman. One final question. Under the provisions of section 11(b) which requires State certification prior to the issuance of a Federal permit, is it not possible that a State, for reasons other than water pollution, may refuse to grant such certification or simply fail to act upon it? If so, what could the applicant do?

Mr. WRIGHT. This question was commented upon by the gentleman from Florida a bit earlier, and I think I would rest upon his answer. It is possible that this particular question may be subject to an amendment tomorrow, and pending that time I think I would not want to make any further comment on the question.

Mr. HARSHA. Would the gentleman yield to the gentleman from Oklahoma (Mr. EDMONDSON) for some clarification.

Mr. WRIGHT. I do yield to the gentleman from Oklahoma, who is extremely knowledgeable on this question of certification.

Mr. EDMONDSON. I thank the gentleman for yielding.

I think the committee was interested in discussing this question and the staff conceded there was a possibility that this could happen, but it felt there would be a relatively remote possibility of it happening over an extended period of time. It is assumed, I think, in connection with this bill that all of the people involved in connection with this pollution control would be acting in good faith. Particularly I think it is a sound assumption that your States and the Federal Government will act in good faith throughout.

However, if the applicant has reason to feel that his rights have been interfered with the judicial procedures available now in the State courts to require action by the State would be available to the applicant. In a case where the Secretary is the certifying authority, the Federal courts would be available to the applicant. Once this act becomes law, it is contemplated that the entire statute will be construed in pari materia.

Mr. HUNGATE. Mr. Chairman,

will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman.

Mr. HUNGATE. Would the gentleman answer this question? Could I inquire of the gentleman, in cases where the State or interstate agencies have authority to certify the conditions of discharge in navigable waters, would certification by the Secretary of the Interior also be required?

Mr. EDMONDSON. The only requirement, if the gentleman will yield, as I understand it, is the Federal certification would be in a situation in which the State did not have standards established and a certifying procedure itself.

Mr. HUNGATE. Would the gentleman yield further?

Mr. WRIGHT. I yield to the gentleman.

Mr. HUNGATE. I am referring to the provision on page 74 of the bill, line 18, where it says:

> Except that (1) if any affected State or the Secretary, if his certification is involved, after notice, which shall be given by such Federal agency, makes written objection, such certification may not be so accepted . .

That does not mean that the Secretary of the Interior then could object in a situation where the State had made its certification, does it?

Mr. EDMONDSON. I would not construe it that way. I would think the alternative that is stated here would be consistent in the situation, that if the affected States had given certification, that that would be the route you would follow. And, if you had a Secretary's certification involved in it you would then be confronted with the regular procedure.

Mr. HUNGATE. I thank the gentleman.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Iowa.

Mr. GROSS. This bill does not provide for the creation of a new commission or board, does it?

I have not been able to discover such language in it.

Mr. WRIGHT. The bill provides for the creation of no new commission, no new board, no new agency. In one instance it changes the name of an existing agency.

Mr. GROSS. I thank the gentleman from Texas.

Mr. WRIGHT. I should like to say in conclusion, Mr. Chairman, that this is

[p. 9026]

strong legislation. It is broad in its application, stringent in its prohibitions. I believe that it will provide a very useful adjunct to that legislation already existing on the books in our continuing battle to clean up and purify the streams and waters of the United States, and prevent their further defilement.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I rise in support of H.R. 4148. The importance of this legislation may be seen from the number of activities which it covers and the broadness of its scope. This legislation deals with offshore facilities, onshore facilities, acid mine drainage, lake pollution, education and training of water quality control personnel, and licensing and permit considerations. As such, it affects in some degree nearly every family in the United States. It goes to nearly every activity—government or private, State or Federal, civilian or military.

Legislation that comes to grips with so many problems in so many diverse areas is not simple. There are many difficult problems that have been dealt with in the attempt to protect the quality of our waters.

Mr. Chairman, simple solutions to difficult problems are extremely rare if they exist at all. We would be pre-

sumptuous if we claimed that the bill prepared by the committee provides a set of simple solutions, because, Mr. Chairman, we have dealt with difficult problems. The legislation before the House was arrived at after much difficulty and study over the last year and a half. I feel confident that the solutions that we have proposed are the best that we can propose at this time, and, therefore, urge the Members to support the bill, H.R. 4148, as presented by the committee.

In doing so, Mr. Chairman, I should like to invite the attention of the Members to the very fine and diligent work that has been done by the members and the staff of the committee in preparing this legislation. I think that all Members will agree, when they have had an opportunity to study the provisions of this bill, that it reflects a high degree of professional competence upon the part of the staff and of real diligence upon the part of the members.

Mr. ROBISON. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New York.

Mr. ROBISON. Mr. Chairman, I appreciate the gentleman from Ohio yielding, so that I may take just a moment or two to congratulate the Committee on Public Works, on which I had the pleasure of serving for some 7 years before beginning my present committee assignment, on bringing out this legislation.

Mr. Chairman, my particular interest in this legislation, as some of the members of the committee will recall, relates to the growing national problem with reference to thermal discharges or cooling waters being released from steampower plants, whether fired by fossil fuels or fired by nuclear energy.

I am especially interested, Mr. Chairman, in section 11(b) of the bill now pending before us.

It seems to me that this section does exactly what ought to be done now in this area of concern in that it does reach toward a national solution to what is rapidly becoming a national problem.

As I understand section 11(b), it will require that an applicant for a Federal license or permit for a facility which may discharge cooling waters into the navigable waters of the United States must first provide the Federal agency issuing a license or permit in connection with that facility, with a certification from the affected State or States, or interstate water pollution control agency, that the activity will be conducted in a manner that will not reduce the quality of the waters below applicable water quality standards.

I would like to say to the gentleman, if he will permit me to, that this has become a matter of serious concern in my own State and in my own congressional district where a nuclear powerplant is in the preconstruction stage. And, if anyone on the committee has wondered whether or not the States would be responsible for moving into this field, I can report to the committee that the New York State Water Resources Commission has been holding public hearings around our State on its tentative criteria in this field of thermal discharge, or thermal pollution. It is important also to know that, in adopting those tentative criteria, our State water resources commission did, generally speaking, accept the recommendations as made in this area last fall by the Federal Water Pollution Control Administration after making a study of the problem.

Mr. HARSHA. I thank the gentleman. I certainly want to commend the gentleman on his views in this particular field. The committee listened with a great deal of interest to his testimony, and gave very serious consideration to his views. The gentleman made very significant contributions toward these matters during the past leading to the formation of this legislation, as he always did when he served on the com-

mittee several years ago.

Mr. ROBISON. If the gentleman will yield further, Mr. Chairman, on page 8 of the report reference is made to the question of whether or not separate certificates ought to be required, both at the time of an applicant applying for and obtaining a Federal construction permit, and then later on at the time that same applicant applies for a Federal permit to operate and maintain the plant as now constructed.

On page 8 of the committee report it is stated:

> Based on testimony by the Commission, the committee has concluded that the very different character of the two applications, the long period of time that elapses between their issuance, and the uncertainty as to the finality of plans at the construction license stage, all support the requirements for certification with respect to both applications.

Mr. Chairman, if the gentleman will permit, I would merely like to take this moment to encourage the Committee of the Whole, and the Members of the House in their respective wisdom, to retain this requirement, if a question should arise on this, not only just for the reasons that are stated in the committee report, but, it seems to me, for one more reason, which is that as research goes forward in this field, about which we know all too little yet, we may well learn a great deal more about thermal pollution and the effects of thermal discharges than we do now. As 3 or 4 years may elapse between the time of a construction permit being granted for a nuclear powerplant, and then the operational permit being granted for that plant, it would be well for the Committee to hold intact this language as it is in the bill, and as mentioned in the report, requiring certification in both separate instances.

Mr. HARSHA. As the gentleman points out, it is precisely for these reasons that we collaborated on this, and that the committee put that provision in the bill.

However, I am not at all saying that this is a matter that is not under discussion at the present time, and I cannot advise the gentleman as to whether or not any amendments will be offered to that particular effect.

Mr. ROBISON. Mr. Chairman, I appreciate the gentleman yielding.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I thank the gentleman for yielding.

On the point that my colleague from New York raised, on two certifications, or whatever number they might be, whenever there is a license applied for, let me say first to my colleague, of which I am sure he is aware, this applies to other matters other than just steamplant power generating facilities, it applies to anything where a license is required. Nevertheless, while I share the concern of the gentleman on the adequacy of those standards, and as the gentleman has pointed out, that there is an intervening lapse of time of maybe 3 or 4 years between a construction license and an operating license in the case of a powerplant with a thermal discharge, I believe we have got to give careful consideration to what burden we are placing on all these facilities.

Mr. Chairman, as I understand it, our power needs, for example, are doubling every decade in this country. In our own State of New York, and in many other States, I would say to my colleagues, we are seeing steam generating plants, as the gentleman has pointed out, either fossil fueled or atomic fueled, under construction, and some coming on the line in operation.

Now, should there be a change in water quality standards in the intervening, shall we say 4 years, between the time when the construction license is granted and when the application is made for an operating license, we could place a very serious burden upon this type of generating facility. And not only that, in the case of public au-

thorities in this field, as we have in the State of New York, we could jeopardize that authori-

[p. 9027]

ty's ability to finance these needed plants.

So I say to the gentleman, that I share his concern in this matter, and I share it concerning these two times of construction and operation, but also that we not place a burden upon these facilities that they will be unable to meet, or have an adverse influence upon the confidence of those who are investing in them.

Mr. HARSHA. Mr. Chairman, I yield back the balance of my time.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I rise in support of H.R. 4148. Not only does this bill provide for a method of dealing with oil pollutants, it also has a small section authorizing research on other pollutants affecting our inland lakes.

My home State happens to have about one-seventh of the entire U.S. total of inland lakes. We are and have been proud of them and until recently, have been able to cope with siltation and eutrophication problems. Now with much greater use of these lakes for recreational and residential purposes, coupled with the wash-in of surrounding soils or fertilizer, some new methods must be developed to return these lakes to beautiful, cold water bodies. This research can be done by contracts from the Secretary to public or private groups or individuals.

This condition must be prevalent in most of our Nation's 100,000 lakes. It is a problem that should no longer be delayed. I urge my colleagues to support this bill.

Mr. HOWARD. Mr. Chairman, I wholeheartedly support this legislation, and I wish to commend my colleagues on the Public Works Committee and the chairman of the subcommittee and the chairman of the full committee for the amount of time they have given to this problem of water pollution and oil pollution, and to commend them for the legislation that is before us today.

I especially wish to commend the gentleman from Texas (Mr. WRIGHT) for his statement concerning this vital problem of oil pollution. Mr. WRIGHT discussed the controls that we will have in the future, the responsibilities that oil carriers do have to the public and to the beaches, the fact that installations must also concern themselves with precautions and be prepared to take responsibility for accidents that do occur.

But there is also the problem, Mr. Chairman, from the viewpoint of those who are on the beach, the ones who will have the oil on their sand, killing their shellfish and their fish, where they do not know in which direction to point the blame. The vessels are to be responsible, but what about the ship that passes in the night. All too often in recent years we have found instances where early one morning the Coast Guard or a commercial fisherman will report a huge oil slick off the coast coming toward the shore of some seaside resort. And no one knows where it came from for sure. They are not sure which vessels had passed by recently. Therefore, we must have something in addition besides the regulations that will charge certain vessels or installations that have dumped the oil with the responsibility of paying for the cleanup.

So I am very happy, Mr. Chairman, that in this legislation there is established a revolving fund of $20 million which will be used in the cleanup of these oil spillages. Of course, we know that where blame can be fixed, the expense of the cleanup will be paid back and that will keep the fund in an ongoing basis, because it is expected that the appropriation will be a one-time appropriation. It will also protect the vital beaches so the economy of an entire area will not be ruined because of an oil spillage when the Coast Guard, the Department of the Interior, or the Government

does not know in which direction to point in fixing the blame. We must be prepared to take quick action against these spillages.

In 1967, when the first major oil crisis came with the crackup of the *Torrey Canyon* off the coast of England, it was seen at that time that even though work was begun immediately to try to combat the oil, much of it hit the beaches. It went into the harbors. It fouled the shoreline. About a month and a half after that occurrence I visited the area, and found that although the beaches were clean, there were several problems that this seaside area still had. First, at that time we did not have enough research to know what kind of materials to use, and there was a kerosene base used in the dispersals. That left a tremendous kerosene odor along the beachfront area.

We found also that there were detergents used in this dispersal which, in many instances, caused shellfish and other fish to be ruined and sport fishing to be stopped for many years in the area.

In one town after another, whether it were Port Land's End, or St. Ives, we found the people concerned about the economic future of their area. They were telling the people in London and around England that the beaches were cleaned up now that summer was coming. Come and visit us. And, naturally, spend your money here. But they found that because of the uncertainty, because the people in the country did not want to take a chance on those beaches being clean, many of them, in the case of the village of St. Ives, had its summer economy damaged to the tune of 90 percent of the previous year's income. The Ocean Eagle, which the gentleman from Massachusetts discussed a moment ago, pointed out the need for a program. We are very happy that a program is now being implemented which we hope will soon be approved by the President when it is presented to him so that the Coast Guard will have the responsibility and the authority to move quickly in this area and be able to clean up our beaches. There are many other areas of oil pollution where we cannot depend on saying, "We will have the person who caused it pay for it."

Many of us found to our surprise just a year or so ago that around the coastline of the United States there are 103 known oil tankers—and their position is known—that had been sunk during World War II. We are not certain whether many of these tankers still contain oil. We feel some of them probably do. Now it is approximately 20 years later, and what would we do if these tankers should burst, as has been suspected in the past couple of years, and the oil from a World War II tanker should come to the shore?

Mr. Chairman, with this section on the revolving fund, we can be certain the economy of our seashore areas will remain constant and we will have protection of the Coast Guard, and the Coast Guard will be ready and willing to move so we can keep the economy of these vital resort areas producing revenues, which will help taxpayers all over the country.

Mr. Chairman, I am certain the bill will pass. I hope it will pass unanimously. I commend all the members of the subcommittee for bringing this fine legislation before the House.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, I think this committee and the House Members all are indebted to the gentleman from New Jersey for his pronounced interest in the matter of pollution of the beaches and shores of this and other countries. I am certain there is no Member of Congress who has more diligently pursued the effort to clean up the beaches of the country and to prevent insofar as possible further spillages. The gentleman from New Jersey has personally visited many places throughout the world, including Great Britain and Puerto Rico

and places off the coast of New Jersey and elsewhere, in his vital interest in this matter.

Mr. HOWARD. Mr. Chairman, I thank the gentleman.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I do not think it is necessary to elaborate on what has already been stated in the presentation of the bill, other than to say I believe it is very timely.

I do want to extend to the committee members as a Californian my personal appreciation for the time they have given to the very unique problem that occurred off the coast of Santa Barbara. I think what has occurred off the coast of California has, in fact, focused national attention on a major problem—that of maintaining some semblance of environmental control and man's impact in this regard.

I also compliment the gentleman from Florida in particular for advancing the idea of the necessity of developing a training program in order to implement that which is legislated here at the national level. Time and time again as we have listened to the testimony before our committee, as we would legislate the necessary authorizational funds, we would find we would not have the administrative and sanitation engineering com-

[p. 9028]

petency, out at the grassroots level, that could carry out the program as initially intended by the Congress of the United States. So I believe this program which will give substance to an adequate training program will have a tremendous impact on the ultimate success and objectives of this legislation. I strongly support its passage.

Mr. CRAMER. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. STEIGER) such time as he may consume.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of H.R. 4148, the Water Quality Improvement Act of 1969.

There is one particular portion of this act which I would especially like to call to the attention of my colleagues. That is section 5(g) which reads:

> The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for 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.

Mr. Chairman, there are over 100,000 lakes in the United States. In Wisconsin alone we have 8,676 lakes which cover a total of 1,138,374 acres. I think it is important to remember that 97.2 percent of all the water on earth is contained in the oceans. The ice caps and glaciers contain 2.15 percent. The remainder—only 0.65 percent of all the water on the surface and underground—is available to man for drinking, cooking, and such purposes necessary to sustain him and enrich his life. Put in this perspective, our inland lake resources become vitally important.

While the demand and need for water pollution control is growing money committed to cleaning the Nation's water resources does not match the priority of the job. And our lack of complete knowledge of the process of lake eutrophication and its contributing factors and in treatment of the situation, makes research and demonstration projects mandatory if our money is to be well spent and our fresh water resources enhanced.

Without the proper research and demonstration for control of pollution in lakes, we could very well spend large sums of money, and still not have the job done.

This is the importance of section 5(g) of this bill.

Mr. Chairman, I first introduced this provision as a separate bill in August

1967. Review of that bill by the Department of the Interior resulted in a new bill, H.R. 13312, which was supported by the Secretary and subsequently incorporated into the 1968 Omnibus Water Pollution Control Amendments. Although differences existed between the House and Senate on portions of the omnibus bill, both bodies approved the clean lakes provision.

Once again we have an omnibus water pollution control bill before us, and once again it includes the "clean lakes" provision.

Every year that passes makes our task more difficult and more demanding. I strongly urge favorable action on this bill.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. FEIGHAN).

Mr. FEIGHAN. Mr. Chairman, we are considering legislation today which deals with the complexities of water pollution control. The Santa Barbara oil spill and other similar disasters have demonstrated the urgent need for improved laws in the control of water pollution. H.R. 4148, the Water Quality Improvement Act, is designed to respond to these particular needs in a number of ways. The bill makes the owner or operator of a vessel liable for oil discharge or spillage cleanup costs up to $10 million or $100 per gross ton. Criminal penalties would be imposed against individuals operationally responsible for vessels, who fail to promptly report a discharge of oil or other polluting matter to the Coast Guard or Secretary of the Interior. The bill also provides for civil penalties against vessel owners or operators in case of willful or negligent discharge and it authorizes the Government to clean up the damage to beaches from pollution regardless of source, providing for appropriate reimbursement by the offending business.

Mr. Chairman, the fact that oil is a serious water pollutant is clearly evident. From January 1968 through February 1969, a period of 14 months, the Great Lakes witnessed a total of 21 oil spills. In addition to its contamination of water, shoreline, and beaches, oil often has severe effects on fish and wildlife, shellfish, and recreation. The use of harmful chemicals to treat oil spills may in themselves produce severe ecological damage.

In addition to oil, the discharge of untreated sewage from vessels and other installations is another major source of pollution. Installation of preventive devices for effective sewage treatment will be necessary if this bill is enacted. Several million dollars will also be channeled into extensive research, development, and training programs to achieve maximum effectiveness in the operation of our water quality control facilities.

Clean water should be a right of every U.S. citizen. It is the duty of the Government to maintain and protect this right. Unfortunately, the Government is not sufficiently protecting or maintaining this right. Recreational, commercial, and industrial interests have been severely impaired by the lack of adequate water pollution control throughout the Nation.

The Great Lakes area, in 1966, conducted over one-fourth of the Nation's manufacturing activity. Projected estimates for the Great Lakes area predict a doubling of the population within 50 years, with industrial activity increasing at least fourfold, if not more. Such forecasts are indicative of the immediate steps that must be taken to improve and maintain our water resources. A genuine commitment to adequate preventive laws and sufficient funding so that new technological discoveries can be applied to all our Nation's waterways, is essential if we expect to achieve proper results. The people of Cleveland have expressed their wholehearted support for antipollution efforts by recently approving a $100 million bond issue to improve the water quality of Lake Erie.

An amendment will be offered calling for the establishment of a national pollution disaster fund to respond to the

specific needs of the Great Lakes and other environmental disaster areas. The amendment, to be offered by my colleague, the gentleman from Ohio (Mr. VANIK), is almost identical to legislation we introduced earlier this year along with several other Members of the House. The amendment authorizes an appropriation of $100 million for the establishment of a pollution disaster fund within the Treasury Department to provide corrective relief to those areas in the Great Lakes, the Continental Shelf, or the United States, which are in environmental crises. To determine how these moneys are to be allocated, a seven-man Commission would be set up, composed of four experts in the field of biology, ecology, and conservation, and three representatives of the general public.

It is generally acknowledged that Lake Erie is one of the most severely polluted waterways in this country. This amendment will assist in upgrading the quality of its water as well as providing careful attention to the changing environmental conditions affecting the ecology of the water. It is the duty of this Congress to revive not only Lake Erie, but also our other water resources and to make them, once again, enjoyable and usable areas for the citizens of the United States. This amendment and the Water Quality Improvement Act of 1969 deserve our enthusiastic support.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may require to the gentleman from Illinois (Mr. GRAY), a member of the committee.

Mr. GRAY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 4148, a great legislative blow at dirty water and stream pollution. This legislation is a real prescription for a healthier nation and its people.

Mr. Chairman, for years our scientific and technical expertise was not sufficient to find ways of eliminating the pollution of our lakes, streams, and rivers. We did not know as much about industrial waste and sewerage disposal plants.

Thanks to our great American know-how, we have the methods but not enough money. States, local communities, and private industry can not do the job alone. They must have help.

For every Federal dollar we spend we will see many times more in non-Federal money invested in clean water. Without the Federal money being available as seed money, the other sources will not be moved to invest. This is why we must continue the great work started by the Congress.

We must find ways of attaining the funds for this program

The bill is another step forward. It brings in to full pollution control for the first time—oil spillage and sewage from oil wells as well as thermal pollution. It continues needed and necessary research in all fields affecting polluted

[p. 9029]

water. Coming from southern Illinois where we have the Ohio River on one side of my district and the Mississippi on the other, with four major river basins in between, we certainly know how difficult it is to find enough funds to stop pollution. With the help of the Federal Government we are now doing the job. I want to commend our great chairman of the full Committee on Public Works, the gentleman from Maryland (Mr. FALLON), the outstanding chairman of the Subcommittee on Rivers and Harbors, the gentleman from Minnesota (Mr. BLATNIK), all the members of the committee on both sides of the aisle. I also want to thank our outstanding general counsel of the committee, Mr. Sullivan for his untiring efforts. It is a real privilege to serve on this important committee of the House and to be able to recommend to my colleagues the enactment of this most important bill.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I rise in support of H.R. 4148, and I want

to express my personal appreciation to the very able chairman of our full committee and several subcommittee chairmen who have joined in working on this bill, along with, I believe, one of the most able staffs in the Capitol—the staff of the Public Works Committee operation.

The bill, H.R. 4148, does a number of things which seems to me to be long overdue.

One of the things it endeavors to do is to promote a much better program of cooperation among the Federal agencies in the control of pollution. One of the strange and embarrassing things about the pollution problem which exists in many areas is that the Federal Government itself has sometimes been a culprit with considerable responsibility for the pollution problem which is present. This is something that subsections 11(a) and 11(b) endeavor to deal with.

Subsection 11(a) requires that every Federal agency having jurisdiction over any real property or facility of any kind shall, within available appropriations and consistent with the interests of the United States, insure compliance with applicable water quality standards. This section puts into law what is now contained in an executive order. It deals directly with procedures for control of pollution caused by the administration or actual operation, either directly or by contract, of federally held real property or facilities.

In attempting to insure that Federal facilities will be in compliance with the applicable water quality standards, the problems to be considered, the priorities to be assessed, and the relative values and public interests to be weighed, are very much akin to the problems, priorities, and interests which must be taken into account by a State when it is establishing water quality standards for a given area, by industries when they are making decisions on how and where they will expand capital investment, and by local governments in attempting to achieve a balance among health and welfare, economic development potential, and supportable tax structure.

The Federal Government must allocate its available tax revenues among a great many priorities. Subsection 11(a) is designed to insure that the maximum extent possible, the Federal Government will conduct its own operations in a manner to control and prevent water pollution.

To further insure that the Federal Government will cooperate to the maximum extent possible with the States in achieving compliance with water quality standards, subsection 11(b) requires that any applicant for a license or permit from a Federal agency when the activity involved will discharge into the navigable waters must first obtain from the State or States involved a certification that the operation of the activity will not reduce the quality of the water below the State's water quality standards.

There are some instances in which a State or interstate agency may at least for the present not have the authority to issue the certification and there are other instances in which water quality standards are issued by the Secretary. In both cases, the Secretary will provide the required certification. Where licenses or permits are required for more than one Federal agency for the same activity, the certification obtained for the first license involved will be sufficient for the succeeding licenses and permits. This is to insure that neither the applicant nor the State be burdened with duplicating permits for a single activity. However, if either the Secretary or a State has reason to believe the original certificate is not sufficient for succeeding purposes, it may make its objections known and require additional certification.

The ability to use an original certificate for a succeeding permit does not apply, however, to an applicant for an operating license or permit. This situation arises specifically with respect to nuclear generating plants where considerable time elapses between the issuance of the permits for the building of

the plant and the operating license for its actual operation.

This time lag can be anywhere from 4 to 7 years, and construction plans upon which the construction permit is based are not always sufficiently precise to insure the kind of operation that is contemplated. Also, because of the length of time involved, external as well as engineering changes could occur, and we believe the additional safeguard of obtaining a second certification at the time the operating license is obtained is necessary.

A further safeguard has been written into this section to take care of the situation where actual physical construction of the facility itself has been started prior to enactment of this act. Actual physical construction means excavation or building. Property acquisition, construction of roads or similar preliminary activity would not satisfy the requirement for exemption from certification. In the case where the license or permit has already been issued, a 2-year period beginning with the date of enactment is granted and within that time the person having the permit is required to obtain the certification otherwise required. Two years seems an adequate time to bring the existing construction into conformance.

Renewals of licenses or permits which come within this section are considered to be new applications for the purposes of this act.

A wide variety of licenses and permits—construction, operating, and otherwise—are issued by various Federal agencies. Many of them involve activities or operations potentially affecting water quality. The purpose of subsection 11(b) is to provide reasonable assurance that no license or permit will be issued by a Federal agency for an activity that through inadequate planning or otherwise could in fact become a source of pollution.

The language of the legislation is intended to eliminate duplicating certification requirements, and to afford a safeguard against too broad a use of the single certification.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield at this time to my good friend and one of the most respected Members of the House, the chairman of the Joint Committee on Atomic Energy, the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. I thank my friend for yielding.

On page 8 of this report, the second paragraph from the bottom, starting with the words "the Atomic Energy Commission has informed the committee," there are outlined a number of individuals and facilities which are licensed by the Commission to possess and use limited quantities of nuclear materials that might, in minute quantities, be disposed of through a waste disposal system. It is said, "It is not intended that subsection 11(b) apply to these specific types of licenses or permits."

I am a little concerned that the delineation of just those few entities might preclude others in the same category, so I will ask the chairman of the committee, Mr. FALLON, at this time a question with relation to the clarification of this part of the report.

My question is this: Am I correct in believing that the committee intended to exempt from subsection 11(b) coverage activities under AEC license not involving discharges directly into navigable waters, and not just those activities specifically identified in the report on H.R. 4148, on page 8?

Mr. FALLON. I say to my distinguished colleague that he is correct. The language on page 8 of the committee report concerning the inapplicability of subsection 11(b) to certain AEC materials licenses was intended to be illustrative, not selective or exhaustive. Where the discharge from the licensed activity will be in minute amounts and will not be disposed of directly into navigable waters, the license for any such activity is not subject to the subsection's require-

ments.

Mr. HOLIFIELD. I thank the gentleman very much for that clarification.

I want to say, I think this is a good

[p. 9030]

bill, and I am supporting it. I am very much interested in control of water pollution, and I appreciate particularly the handling of the problem as a result of the oil spillage in the Santa Barbara channel off the coast of California.

There are one or two other little points in the bill I may want to discuss tomorrow, during the amending period. Otherwise, I think it is a very good bill and I intend to support it.

I thank the gentleman for yielding.

Mr. EDMONDSON. I thank the gentleman from California.

May I say, on behalf of the entire Committee on Public Works, we deeply appreciate the manner in which the gentleman from California, as the chairman of one of the major joint committees of the Congress, has brought to the committee's attention in detail questions which that committee which he heads has raised concerning this legislation.

I think that the presentation that was made to our committee on this subject by the gentleman from California (Mr. HOLIFIELD) has been most helpful to an understanding of the problems of the Atomic Energy Commission by our committee. I am hopeful that it will be possible to work out tomorrow, when we get to the stage of considering amendments under the 5-minute rule to this bill, language that will be acceptable to the gentleman and his committee in connection with sections 11(a) and 11(b), which I understand created most of the concern in his committee.

Mr. HOLIFIELD. I thank the gentleman for his interest and mention to the House the fact that the gentleman from Oklahoma is now the latest member of the Joint Committee on Atomic Energy and rapidly becoming one of the valuable members of that committee. I do appreciate his assistance as well as the assistance of the staff of the Committee on Public Works as well as the chairman, the gentleman from Maryland.

Mr. EDMONDSON. I thank the gentleman very much.

I might add that we have had made available to us an excellent summary legal analysis on the Federal-State jurisdiction with regard to regulating atomic energy. At the appropriate time, when we go back into the House, I intend to ask permission to have this document made a part of the RECORD. This is a very fine piece of work and something that is useful to all of the membership both as a part of the permanent RECORD and also for study for tomorrow in advance of the consideration of amendments in which the gentleman from California has expressed interest.

The material referred to follows:

SUMMARY LEGAL ANALYSIS ON FEDERAL AND STATE JURISDICTION TO REGULATE ATOMIC ENERGY

In examining the Federal-State relationships respecting the regulation of atomic energy, it is important to note the history of the various legislative enactments concerning atomic energy. Under the Atomic Energy Act of 1946,[1] the Nation's first such legisla-

---

Footnotes at end of article

tion, atomic energy was enveloped in an almost air-tight Government monopoly. The possession, use, transfer, export, import, etc., of source, byproduct and fissionable materials[2] were subject to pervasive Atomic Energy Commission regulatory controls. Moreover, except in certain enumerated and very limited circumstances, facilities for the production of fissionable material (e.g., nuclear reactors) could not be owned by anyone (including agencies and departments of the Federal Government) other than the AEC,[3] and under no circumstances could there be ownership of fissionable materials by anyone other than the AEC.[4] The Act wrought modifications of the patent system unprecedented in American history—certain inventions and discoveries pertaining to atomic energy were removed entirely from the regular patent system,[5] and certain others, while patentable, were subject to compulsory licensing if found by the Commission to be affected with the public interest and such licensing was "necessary to effectuate the policies and purposes of this Act."[6]

Certain of these rigid controls were relaxed at the time of the passage of the superseding

Atomic Energy Act of 1954,[7] but even so, it can be said that, with respect to the Commission's assigned areas of responsibility, few other statutes confer upon an executive agency the broad powers with which the AEC is endowed by the Act's terms. The patent provisions of the 1954 Act, while somewhat less far-reaching than those which existed under the 1946 Act, represent marked departures from the normal patent system in terms of the controls which they vest in the AEC over atomic energy inventions and discoveries. The earlier Act's virtual prohibition against private ownership of "utilization facilities" (e.g., nuclear power reactors) was removed with passage of the 1954 Act, however, it was not until a Congressional enactment as recent as 1964[9] that private ownership of the fuels for such facilities (i.e., special nuclear material)[10] became permissible. Moreover, authority for the AEC to impose a comprehensive and detailed regulatory control scheme upon the possession, use, transfer, export, import, etc. of source, by-product and special nuclear material continues to reside with the Commission under the Act.[11] Absolutely no mention was made by Congress in the 1954 Act of a role for the states in the regulation of these materials, and except for one limited provision[12] not relevant to radiological considerations, no notice was taken of a role for the states in the regulation of nuclear power reactors.

As atomic industrial activity and the number of trained personnel grew in the years following passage of the 1954 Act, and as classification restrictions on atomic information were lifted, some states began to develop an interest in applying their general health and safety powers to the atomic activities being carried on within their borders. In that context, Congress was persuaded of the advisability of legislation offering to the states a role and thereby clarifying the respective roles of the AEC and the states under the Atomic Energy Act. For that primary purpose, Congress added Section 274 to the Act in 1959.[13] Under that section the Commission may relinquish to states, on a state-by-state basis, certain of its authority to regulate the use of reactor-produced isotopes, the source materials uranium and thorium, and small quantities[14] of special nuclear materials. (These materials collectively are referred to as agreement materials.) In order to relinquish any such authority the Commission must find that the state's regulatory program is adequate to protect the public health and safety and is compatible with the AEC's regulatory program. The Act specifically reserves certain areas to the Commission, such as regulation of the construction and operation of nuclear reactors (including the discharge of radioactive effluents from the facility site[15]), the export and import of agreement materials, and the ocean disposal of radioactive wastes. To date nineteen states have entered into agreements with the AEC to assume the regulatory responsibilities transferable under Section 274.[16]

If any shadow of a doubt existed prior to 1959 that Congress intended to preempt the regulation of atomic activities insofar as radiation protection is concerned, the above-mentioned amendment should have dispelled that doubt. According to the House and Senate reports on the legislation which became Public Law 86-373,[17] it was the intention of that law to clarify the responsibilities of the Federal Government, on the one hand, and state and local governments, on the other, with respect to the regulation of by-product, source and special nuclear materials in order to protect the health and safety from radiation hazards. The report states:

"It is not intended to leave any room for the exercise of dual or concurrent jurisdiction by States to control radiation hazards by regulating byproduct, source, or special nuclear materials. The intent is to have the material regulated and licensed either by the Commission, or by the State and local governments, but not by both. The bill is intended to encourage States to increase their knowledge and capacities, and to enter into agreements to assume regulatory responsibilities over such materials."[18]

The comprehensive controls over the various nuclear materials, devices (including weapons) and facilities which the Atomic Energy Act of 1954 and its 1946 precursor lodged in the AEC; the paramount national interest in this highly sensitive and important field; the significant implications of these materials, devices, and facilities to public health and safety and the common defense and security; and Congress' utter silence in 1946 and 1954 on the role, if any, of the states in regulating the potential radiological hazards of source, byproduct and special nuclear materials—all of these quite clearly evidence a legislative intent to "occupy the field" to the exclusion of state regulation. If any further evidence were required of Congress' intention to preempt this field, the legislative history of Public Law 86-373 provides it in abundance—indeed, it fairly compels this conclusion. That Congress under the supremacy clause of the U.S. Constitution has the power to preempt an entire area of regulation with consequential suspension of state enactments touching thereon is well settled.[19]

Such published authorities as have considered the preemption question in the context of atomic energy unanimously agree that Congress has preempted substantially the whole field to the exclusion of the states except only state regulation pursuant to an agreement as provided in section 274.[20] For example, the Attorney General of Michigan

concluded that:

"We are convinced that under the terms of the [Atomic Energy Act of 1954, as amended] viewed in the legislative history of the 1959 amendment and [in] light of "all that bears upon its purpose and meaning," Congress intended to place the exclusive and primary responsibility for regulation of radiation hazards for the protection of the public health and safety in the peaceful use of atomic energy, i e, source, byproduct and special nuclear material as defined in the Act in the Atomic Energy Commission and that it has preempted this field of regulation, with provision for limited relinquishment thereof, under the terms of authorized agreements" [21]

The Attorney General of South Dakota similarly concluded that:

"It is my opinion that the Federal Government has preempted the field of protection of public health from the radiation hazards associated with atomic energy 42 U S C.A § 2012, 2014(c)" [22]

The New York State Bar Association's Committee on Atomic Energy, in a study of the agreement between the State of New York

[p. 9031]

and the Atomic Energy Commission, came to the same conclusion Its report stated:

"While the United States Supreme Court has never been required to determine whether the Atomic Energy Act has pre-empted the regulation of atomic activities for radiation protection purposes, it seems clear that Congress intended so to pre-empt, if not by the provisions of the 1954 Act, then, certainly by means of the Federal-state amendment in 1959 In the latter amendment, Congress came perhaps as close as it has ever come to stating expressly that a regulatory area has been pre-empted." [23]

This conclusion is particularly significant because the study stemmed from a provision in the agreement between the State of New York and the Commission which indicated that there were apparent differences of opinion between the Commission and the State as to the jurisdiction of each

While, as noted above, the U S. Supreme Court has not specifically ruled on the question of preemption under the Atomic Energy Act, it is significant to note that the two state courts before which the question has been raised both agreed that such preemption had occurred [24] In addition, it is interesting to note that the National Association of Attorneys General has reviewed the law and the proposed transfer of regulatory responsibilities from the AEC to the states and has endorsed the program On April 25, 1962, the Association adopted a resolution favoring transfer of regulatory responsibilities, the resolution reading in part "Be it resolved . . that all states are urged to accelerate the adoption of such legislation and the development of such programs as will permit the states to enter into agreements with the Atomic Energy Commission pursuant to P L 86-373" It is doubtful that any State's Attorney General would endorse such a program unless he was confident that the responsibility rested with the Federal Government and that it could be transferred to the states.

The American Bar Association has also endorsed a program of state assumption of atomic energy regulatory responsibilities from the Federal Government, as did the Governors' Conference in a resolution adopted on July 2, 1962 It might also be noted that such other organizations as The Council of State Governments and the Chamber of Commerce of the United States have approved the practice of a transfer of AEC regulatory responsibilities to the states, without any expression of concern that a constitutional issue exists in this connection

Of course, it is not meant by any of the foregoing to suggest that the regulation of source, byproduct or special nuclear material, or utilization or production facilities, from other than the standpoint of *radiological* health and safety is without the authority of the states; nor is it meant to suggest that the regulation, including regulation of the radiological effects, of radioactive materials other than those controlled by the Atomic Energy Act is beyond the reach of the states except pursuant to a Section 274 agreement [25]

There remains the question whether the Federal Water Pollution Control Act (FWPC Act) [26] has the effect of vesting in the states any authority, by their participation in the setting of water quality standards, over the release of radioactive effluents, which had been preempted to the Federal Government by the Atomic Energy Act of 1954 as amended. Radioactive effluents from AEC licensed facilities are discharged to waters as "interstate" by the FWPC Act.[27]

The terms of the FWPC Act, of themselves, do not speak expressly to the preemption question [28] The FWPC Act contains no express provision relating to state authority to adopt water quality standards applicable to radioactive affluents, or to the Act's relationship to the Atomic Energy Act.[29] The legislative history of the 1965 amendments to the FWPC Act, which added the water quality standards provisions, indicates that no consideration was given to possible effects on the jurisdiction of the AEC under the Atomic Energy Act

It appears quite clear, however, that the FWFC Act does not affect the AEC's preempted jurisdiction over radioactive effluents. The FWPC Act provides for the establishment of standards applicable to interstate waters which become effective only when approved by the Secretary of the

Interior, if established by the state, or when promulgated by the Secretary in the absence of acceptable state standards The standards thus promulgated by the Secretary are then used in the Federal enforcement proceedings authorized by the FWPC Act.

Nowhere does the FWPC Act speak in terms of *a grant of authority* to the states to set water quality standards. Prior to the passage of the 1965 amendments, which added water quality standard provisions to the Act, the states had power, pursuant to the Tenth Amendment to the Constitution, to set water quality standards and to enforce them as to interstate waters within their boundaries [10] In actuality, while at least three-quarters of the states had state legislation directing or permitting the establishment of water quality standards and/or stream classifications, not all these states had actually adopted standards. In the States which had adopted standards, both the content of the standards and the method of application varied [11]

While, in theory, individual states could, on the basis of such standards, abate pollution in interstate waters within their boundaries, such action was not likely to be undertaken without the cooperation of other states involved in the pollution.[12]

If Federal abatement action were undertaken, a choice among, or determination of, standards to be used in arriving at abatement measures had to be made. Thus, the statutory pattern of the Federal Water Quality Act of 1965, now embodied in the FWPC Act, was to provide for the establishment of water quality standards consistent with the expressed purposes of the Act, to be achieved through review and approval, or promulgation by, the Secretary of the Interior, for use with respect to interstate waters While the FWPC Act was intended to encourage the states to develop water quality standards initially, it did not grant them new authority, indeed, as noted above under the discussion of the states' reserved powers under the Tenth Amendment, except for the preempted (and limited) field of regulation of the radiological effects of atomic energy materials on interstate waters—about which the Act and its legislative history are utterly silent—no grant to the states of new standard-setting authority was necessary to achieve the expressed purpose of the Act Far from showing an indication that the states expected to add to their jurisdiction over discharges, the hearings on the Federal Water Quality Act of 1965 exhibit a concern on the part of the states and their representatives that the legislation would preempt the field to the Federal Government through the requirements for approval of state standards and/or setting of standards by the Federal Water Pollution Control Administration for use in Federal enforcement proceedings [13]

On the other hand, the Atomic Energy Act clearly reserves to the Federal Government the field of regulation of atomic energy, except as that jurisdiction has been relinquished to the states under agreement entered into pursuant to section 274. The FWPC Act, as noted *before, did not grant any new* authority to the states, but has provided a mechanism for approval of state standards as a basis for subsequent Federal action against polluters. Thus, the state role under that statute may be viewed as limited, at most, to establishment of standards which the states have authority to adopt. By reason of the preemption to the AEC of jurisdiction over regulation of byproduct, source and special nuclear materials, states have no jurisdiction to adopt standards relative to such materials, including those contained in effluents, in the absence of an agreement with the AEC Those states which have entered into agreements are, by the terms of the agreements, obligated to use their best efforts to assure that their regulatory programs continue to be compatible with the AEC's program [14]

One final thought deserves brief mention. If, contrary to the view expressed above, the Federal Water Quality Act of 1965 could be construed as a grant of authority to the states, this together with the fact that such authority was granted subsequent to enactment of the Atomic Energy Act of 1954 and section 274 thereof in 1959 would in no way disturb the foregoing conclusions It is a recognized principle of statutory construction that *subsequent legislation is not presumed* to effectuate an amendment of a law not under consideration, in the absence of an express amendment, unless the terms of the subsequent act are so inconsistent with the provisions of the prior law that they cannot stand together [15] No such incompatibility or inconsistency would appear to exist here as to require invocation of the exception to this general rule of statutory construction.

Based on the foregoing, it seems clear that the Atomic Energy Act and the FWPC Act can and should be construed together so as not to disturb the jurisdiction of the Commission, vis-a-vis the states, under the Atomic Energy Act This would have the effect of leaving intact the statutory scheme of section 274 which contemplated, among other things, that regulations for protection against radiation hazards should be as consistent as possible, while at the same time preserving the complementary jurisdiction of the states and the Department of the Interior in the area of water pollution.

FOOTNOTES

[1] Public Law 585, 79th Cong., 60 Stat. 755–75 (1946), hereinafter referred to as the 1946 Act.

[2] The terms source material, byproduct material, and fissionable material were the names given to the various nuclear materials controlled by the 1946 Act, and were defined respectively in Sections 5(b)(1), 5(c)(1), and 5(a)(1) thereof The term "fissionable material" was replaced by the term "special nuclear material" under the Atomic Energy Act of 1954. See footnote 10, *infra*

[3] Sec. 4(c)(1), 1946 Act.

[4] Sec. 5(a)(2), 1946 Act.

[5] Sec. 11(a)(1), 1946 Act

[6] Sec. 11(c)(2)(A) and (B), 1946 Act.

[7] Public Law 83-703, 68 Stat 919 (1954), as amended, 42 USC 2011-2281, as amended, hereinafter referred to as the 1954 Act

[8] The terms "production facility" and "utilization facility" are defined in Section 11 v and cc. of the 1954 Act. Except for certain military activities involving the Department of Defense, no person within the United States may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any nuclear reactor, nuclear fuels reprocessing facility, fission product conversion and encapsulation plant, or other utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 103 or 104 Sec 101, 1954 Act

[9] Public Law 88-487, 78 Stat 604 (1964), the so-called Private Ownership of Special Nuclear Materials Act

[p. 9032]

[10] The term is defined in Sec. 11 aa., 1954 Act Essentially it refers to plutonium, uranium 233, and uranium enriched in the 235 isotope.

[11] See Secs 53, 62 and 81, 1954 Act

[12] Sec. 271, 1954 Act, as amended by Public Law 89-135, 79 Stat 551 (1965)

[13] Public Law 86-373, 73 Stat 688 (1959).

[14] I.e., quantities not sufficient to form a critical mass

[15] 10 CFR § 150.15(a)(1) (1965).

[16] Alabama, Arizona, Arkansas, California, Colorado, Florida, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, New York, North Carolina, Oregon, Tennessee, Texas and Washington

[17] H Rept No. 1125, S Rept No 870, 86th Cong., 1st Sess. (1959)

[18] Id. at 9

[19] See Corwin, *Constitution of the United States of America* (1963), p 807.

[20] See, e g, Mich Ops Atty Gen No 4073 (1963); Cavers, *State Responsibility in the Regulation of Atomic Reactors*, 50 Ky L J 29, 29-32 (1961); Estep & Adelman, *State Control of Radiation Hazards An Inter-Governmental Relations Problem*, 60 Mich L Rev 41 (1961), Committee on Atomic Energy, N.Y. State Bar Assn, *State Jurisdiction to Regulate Atomic Activities: Some Key Questions* (July 12, 1963)

[21] Opinion No. 4073, October 31, 1962, pp. 6-7.

[22] Official Opinion, July 23, 1964, p. 2

[23] Committee on Atomic Energy, N.Y. State Bar Assn, *State Jurisdiction to Regulate Atomic Activities Some Key Questions* (1963), supra note 20, pp 4-5.

[24] Boswell v City of Long Beach, 1 CCH Atom En L Rept 4045 (Cal Super Ct, 1960), Northern Cal Assn, etc v. Public Utilities Commission, 37 Cal Repts 432, 39 P 2d 200 (1962).

[25] E g, radium, radioactive materials produced in accelerators, X-ray machines, and fluoroscopes

[26] 33 U S C 466 *et seq.*

[27] That Act defines "interstate waters" as "all rivers, lakes and other waters that flow across or form a part of State boundaries, including coastal waters" (33 U S C. 466 j(e)).

[28] Section 466 c does, however, provide that nothing in the 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"

[29] Section 14 of the FWPC Act (33 U S C. 466 k) which provides that the Act shall not be construed as, among other things, superseding or limiting the functions, under any other law, of any other officer or agency of the United States, relating to water pollution, is not dispositive of questions of preemption Since this section has not been changed by any of the various amendments to the Act since 1948, including those subsequent to the addition of section 274 to the Atomic Energy Act which set forth, in more or less clear terms, the extent to which states could exercise jurisdiction over byproduct, source and special nuclear material, its retention is evidence of Congressional intent to preserve the exclusive jurisdiction of the AEC with respect to discharges containing such material However, the terms of the section are not necessarily inconsistent with a withdrawal of Federal preemptions and "restoration" of some jurisdiction over atomic energy materials to the states

[30] It may be noted that the Federal Water Pollution Control Administration, in its regulation relating to procedures for adoption and promulgation of state standards (18 CFR Part 620), described them (§ 620.2(a)) as "Water quality standards adopted and promulgated by a State in accordance with applicable State law and with section 10(c) of the Federal Act" (33 F.R 2632).

[31] See Water Pollution Control Hearings Before the Subcommittee on Air and Water Pollution, Senate Committee on Public Works, on S 649 et al, 88th Cong, 1st Sess, pp. 119-122 S 649 was a bill to amend the

FWPC Act, which passed the Senate in the 88th Congress, and contained provisions for establishing water quality standards for interstate waters somewhat similar to those in the bill passed by the 89th Congress which became P L. 89–234, the Water Quality Act of 1965.

[32] A description of the practical difficulties in state adoption and enforcement of water quality standards is found at 111 Cong Rec. 8287–8 (April 28, 1965).

[33] The Assistant Secretary of Health, Education and Welfare, Mr. Quigley, emphasized, in response to questions from Representative Harsha of Ohio, that no federal preemption was intended, and that there was nothing in the legislation to prevent the states from raising their standards above the levels set by the Federal Government (Water Pollution Control Hearings on Water Quality Act of 1965 before the Committee on Public Works, House of Representatives, 89th Cong., 1st Sess., February 18, 19 and 23, 1965, pp. 80–81.)

[34] It should be noted that section 274 of the Atomic Energy Act also establishes the Federal Radiation Council, and provides for its functions to include guidance for Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with states

[35] Frost v Wenie, 157 U.S 46 (1895), 1 Sutherland, *Statutory Construction*, pp. 365–6 Sutherland specifically discusses the question of abrogation of state law by Federal statutes and the revival of state legislation by repeal of Federal regulation (§§ 2026, 2027) The cases cited, however, all concern situations in which the Federal statute was expressly repealed or the obstacle to state action removed by express Congressional enactment.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I rise in support of the Water Quality Improvement Act of 1969 and urge its approval by the House today. This legislation has evolved from the realization that existing laws are inadequate in meeting all situations in which pollution by oil is involved. The disaster which occurred off the coast of Santa Barbara, Calif., 3 months ago served to highlight the need for further legislation, and gave impetus to this bill.

The Water Quality Improvement Act of 1969 will give the President the authority and the means to act quickly should another disaster like that at Santa Barbara, or one like the breakup of the tanker *Torrey Canyon* off the coast of England, occur within our territorial waters. It sets up a revolving fund to clean up oil pollution. It levies a civil penalty of up to $10,000 in cases involving willful or negligent discharges of oil or matter in such quantities that it presents a pollution hazard. This legislation holds the owner or operator of a vessel financially responsible for cleaning up the pollution which they caused.

The act also deals with the subject of research and development in the water pollution field, extending the research provisions of the Federal Water Pollution Control Act another 2 years.

REAL ISSUE IS FINANCING

Mr. Chairman, this bill does a great deal, but I feel that Congress is missing the point if it does not face up to the real issue involved in the whole question of how we control water pollution. That issue is the question of financing. For until Congress comes face to face with the question of where do we get the money to pay for all the programs we have passed, and resolves it, the quality of the water in our rivers and lakes will continue.

Almost every Congress since I have been here has enacted at least one water pollution control measure The Land and Water Conservation Act of 1964, the Water Quality Act of 1965, the Clean Water Restoration Act of 1966, the Water Quality Improvement Act of 1968, these are a few that come to mind.

And yet, despite the gains we have made, and despite all this wonderful sounding legislation which we have enacted, the testimony which we heard recently in the Public Works Committee indicates that the situation is only getting worse. And so, Mr. Chairman, until we face the question of financing, we will find that the legislation we pass today, like that which we have enacted before, will be precious little help in combating

the pollution hazard which this Nation faces.

I have been in contact with State officials in New Hampshire to assess the opinions on this legislation. Their words have a familiar ring Mr. William Healy, executive director of the New Hampshire Water Supply and Pollution Control Commission, says the bill is fine, but of little use to him unless there is some money behind it. Mr. Clarence Metcalf, director of municipal services for the same commission, said that within 6 months New Hampshire will have in excess of $10 million in projects waiting to be funded.

Mr. Metcalf expresses the commission's concern over the greatly reduced funding of water pollution control programs at the Federal level, and urges increased appropriations in fiscal year 1970 for the Clean Waters Act.

Still, it is obvious from looking at the state of the Federal budget today, there is little real prospect of additional revenue from pollution control programs from this source. This is a reality, and it is best we recognize it as such immediately and begin to look at other sources.

One suggestion which holds some promise has been the use of tax credits to industries who construct sewage treatment facilities. There is no question that industry—not to mention the Government itself—is one of the most serious pollutors of our waters. Too few industries, however, do anything to reduce the amount of sewerage which they pour daily into our streams and rivers. A system of tax credits might provide the needed incentive for them to take the necessary steps in reducing their own pollution.

Another proposal, and one which I favor, would be similar to the highway trust fund, where those who use the highways pay a tax to do so. This money is placed in the trust fund, and used to

[p. 9033]

construct new roads and improve old ones.

WATER POLLUTION CONTROL TRUST FUND

Similarly, if Congress established a water pollution control trust fund, those who use our waters and are contributing to its pollution would pay a tax on it. This money would then be used to finance the construction of sewage treatment plants and other facilities used in the fight against pollution.

Mr Chairman, I hope the Congress will give immediate attention to the question of financing, for unless we resolve this most crucial question, I am afraid the situation will only continue to deteriorate, and will contribute to the growing belief among our constituents that the Federal Government is not able to cope with the really serious problems which are facing this country today.

Mr CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER), a member of the committee.

Mr. MILLER of Ohio. Mr. Chairman, clean water should be of concern to every American. Much of our recreation, industry, and natural environment is dependent on adequate supplies of good water. Water is the very foundation of life itself.

It is imperative that the Federal Government enact stringent measures to protect our water sources from the abuse of pollution. Too many of our rivers and lakes have already been turned into lifeless sewers and cesspools by man's wantonness and neglect. The tragedy of Lake Erie must not be repeated in the other Great Lakes and then in the world's oceans. Our civilization must police itself or we will be progressively poisoned by our own effluents.

H R. 4148 is a major step in the direction of preserving the remaining purity of our natural water sources. Hopefully we may even begin to reverse the pollution processes that have desecrated so many of our waterways.

A major provision of this bill places the responsibility for cleaning up after a marine pollution disaster where it should be—on the operator or vessel that caused

it. If there is ever another *Torrey Canyon* or Santa Barbara catastrophe, there must be no question of legal liability for the resulting damages.

The grants authorized under this bill for scientific and technical training and research will be a wise investment in the future cleanliness of our waterways.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York (Mr. MCCARTHY).

Mr. McCARTHY. Mr. Chairman, I thank the gentleman from Texas for yielding.

I will briefly explain a couple of the important sections of this bill.

Section 19 of the act sets up a program for demonstration projects to study methods for the elimination and control of acid or other mine drainage which results in pollution. The demonstration projects will be carried out under agreements with the States or interstate agencies and they are intended to demonstrate the engineering and economic feasibility of possible abatement techniques. The State share of the cost of the project would be at least 25 percent and to encourage the States to participate in the program, that 25 percent can be in the form of land, facilities, and services. An appropriation of $15 million for the program is authorized. No more than 25 percent of the available funds can be allocated to any one State in the program.

Section 4 of the act authorizes the Secretary to enter into contracts and grants with individuals, agencies, and organizations for research and development on the problem of lake eutrophication and other lake pollution problems. It also authorizes the Secretary to acquire lands and interests therein by purchase with appropriated or donated funds, or by donation, or by exchange, in connection with development of field laboratories, research facilities, and demonstration projects.

Section 4 contains the general authorization for the Secretary to undertake research studies, demonstrations, and so on, by grant, contract, or otherwise for the prevention or control of oil pollution, including the removal of oil discharges. This section further includes general authorization for the Secretary to engage in research relative to the equipment which will be required to meet the standards for control of sewage from vessels which are covered elsewhere in the act. It should be noted that with respect to this research, the Secretary is directed to file a report of his findings prior to the effective date of any standards to be established in connection with vessel sewage.

The general research, investigation, and training program contained in the basic act is extended for 2 additional years at the present funding level of $65 million.

Section 5 of the act extends for 2 additional fiscal years the project research authority already contained in the basic law and authorizes appropriations for each of fiscal years 1970 and 1971 in the amount of $60 million.

Sections 6 and 7 are technical amendments providing for the deletion or repeal where required of the Oil Pollution Act of 1924.

Section 8 changes the name of the Federal Water Pollution Control Administration. This is a positive program to achieve high water quality standards, and the name of the administering agency should adequately reflect this purpose.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the subcommittee, the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Chairman, H.R. 4148 recognizes that waste from waterborne vessels is still another cause of pollution of our Nation's waters. In view of our resolve to restore and enhance the quality of our water by controlling waste discharges from our municipal sewers and our industrial complexes, we cannot ignore the wastes emanating from waterborne vessels It is presently most severe in bays, inlets, lakes, harbors,

and marinas. These pollutants include sewage and other wastes. Many vessels are not equipped to provide even minimal treatment. With the growing popularity of recreation craft, corrective and preventive action must be set in motion now to prevent a more serious problem to our waters.

H.R. 4148 would—

Provide for the control of sewage from vessels including foreign vessels using our waterways and commercial and recreational vessels:

Direct the Secretary of the Interior to issue Federal standards of performance for marine sanitation devices for all vessels except vessels not equipped with installed toilet facilities, and it would direct the Coast Guard to issue regulations relative to the design, construction, installation, and operation of these devices on board such vessels;

Apply to existing vessels, the construction of which is initiated prior to issuance of the standards and regulations;

Apply to new vessels, the construction of which is initiated after issuance of the standards and regulations;

Provide that the initial standards shall be effective for new vessels 2 years after promulgation, but not earlier than December 31, 1971, and for existing vessels 5 years after promulgation; and

Provide that once the initial standards and regulations are effective a State or a political subdivision thereof may not adopt or enforce any law or regulation governing the design, manufacture, or installation of any marine sanitation device on board any vessel subject to the Federal standards or regulations. This would not, however, affect the State's authority to prohibit completely all sewage discharges from vessels in particular intrastate waters of the State, regardless of whether the sewage is treated or not.

In such cases, however, the State must also prohibit waste discharges from all other sources.

H.R. 4148 would also—

Provide for a system of certification by the Coast Guard of marine sanitation devices;

Provide for the establishment of civil penalties after notice and opportunity for a hearing; and

Provide that provisions of this section shall be enforced by the Coast Guard.

Watercraft are of course only one of the many sources of pollution that must be corrected, but as we previously noted this pollution is highly visible and noxious. It is our belief that H.R. 4148 takes major strides in controlling this source of pollution in a reasonable manner. It provides appropriate time where it is needed and yet takes the remedial steps which are necessary in preventing major problems in the future.

Mr. HUNGATE. Mr. Chariman, will the gentleman yield for a question?

Mr. BLATNIK. I shall be glad to yield to the gentleman from Missouri.

Mr. HUNGATE. On page 59, beginning on line 4, there is this language, "except that nothing in this section shall be construed to affect or modify the authority or jurisdiction of any State to prohibit discharges of sewage whether treated or not from a vessel within all or part of the intrastate waters of such State if discharges from all other sources are likewise prohibited."

Would that not mean that the States

[p. 9034]

during this 5-year period could not prohibit the discharge of primary waste from a vessel as long as a city or village discharges waste that had primary or secondary treatment?

Mr. BLATNIK Would the gentleman read the last part of his question again?

Mr. HUNGATE. It states in here that a State, as I read it, "except that nothing in this section shall be construed to affect or modify the authority or jurisdiction of any State to prohibit discharges of sewage whether treated or not from a vessel within all or part of the intrastate waters of such State if discharges from all other sources are likewise prohibited."

Mr. BLATNIK. It is my opinion that refers only to discharges of any and all

sources that are prohibited at the present time.

For instance, you may have a bay where there is no discharge whatsoever, whether it be primary or secondary, and under that condition the State does have the right to prohibit the discharge from any vessel.

Mr. McCARTHY. Mr. Chairman, if the gentleman will yield further, if we have a small municipality which has a secondary treatment plant, under this provision as I read it, it could not prohibit the discharge of raw sewage from a vessel for 5 years even though it prohibits the secondary discharge of sewage from the village?

Mr. BLATNIK. Not for 5 years, but after the provisions of this law go into effect it would be only 5 years for old boats, but only 2 years for new boats. But I would believe the State would have the right, and the Federal Government could not preempt the State's authority, to insist that there be compliance with definite standards which certainly could not be less than the standards that the municipality would comply with.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have asked for this time in order to ask the gentleman a series of questions, and to establish some legislative history.

Is it the understanding of the gentleman that the words "water pollution" would include an act that would result in salinity intrusion, if a fresh-water body, for example, was altered in quality by saline intrusion into that body, would that be an act of pollution?

Mr. WRIGHT. In reply to the inquiry of the gentleman from California, as to whether saline materials could be described as matter under the terms of the bill, would depend entirely upon their listing by the Secretary. The Secretary has been directed to compile a list of hazardous materials. Now, there is no question but that excessive salinity in certain circumstances can be a serious pollutant to water.

For that matter, the United States has recognized this responsibility under a treaty with Mexico to provide pure water to be discharged into Mexico from the Colorado River. However, I believe there must be borne in mind that discharge of a certain material might be hazardous in one case, and harmless in another.

Therefore the Secretary must take into consideration the environment into which the discharge would occur, and presumably also the establishment of certain quantitative requirements as to how much of the harmful substance would constitute a pollution hazard.

Mr. WALDIE. It would be my understanding that salinity intrusion being defined as a pollutant, would then require the respective States in the adoption of their water quality standards to set that as a criteria.

Mr. WRIGHT. There is no prohibition whatever against the State setting that, or any other stricter criteria than the Federal Government itself establishes.

Mr. WALDIE. I believe what I am attempting to establish is that the Congress went further in this act than not prohibiting the States from doing so, but that in fact the Congress instructed the States to define salinity intrusion as constituting pollution. And I call the attention of the gentleman to the concern that Congress has already expressed for the preservation of its estuarine areas, and to the damage that is done to those estuarine areas when there is diversion upstream of the fresh water flow into the estuary, and thereby resulting in an inflow of saline water intrusion damaging and destroying the ecological system of the estuary, and the economic benefits that are found in estuarian waters.

Mr WRIGHT. The gentleman is correct, that this does constitute one precedent and recognition of excessive

salinity as a harmful pollutant. I do not believe that where there exists in law a specific mandate from the States that in all cases salinity must be defined as being a pollutant, however, emphatically, there is nothing in the legislation—

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield the gentleman 2 additional minutes.

As I was saying, there emphatically is nothing in the legislation to prohibit a State from making this requirement, and it is the expectation that the Secretary will list all those substances which he deems to be hazardous.

For example, I call the gentleman's attention to paragraph 4 on page 48 of the bill which states very clearly:

> Nothing in this subsection 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 matter into any waters within such State.

Mr. WALDIE. If I may just pose one more question to the gentleman. In my own State, California, the responsibility under this act of setting forth water quality standards and setting forth acts that constitute pollution vest in the State itself. Yet, the State itself is really the polluter by reason of their activities in diverting the fresh waters from the upstream flow into the San Francisco estuarian system. It is unreasonable to assume, unless they are compelled to do so, that they will place themselves in the role of becoming an active polluter—which, in fact, they quite clearly are.

The only real question I am asking the gentleman is—if within the concept of this bill, if a body of water that is fresh and is utilized for irrigation, for example for agricultural purposes, subsequently becomes salty water because of the diversion of upstream water that formerly prevented salt water intrusion—if that situation exists, does the person who has diverted the fresh water and thereby has permitted the salt water intrusion and destruction of the agricultural use—does that person become the polluter?

Mr. WRIGHT. The answer would have to be that the extent of the pollution, if any, and whether or not it constituted a hazard under the meaning of the act, would be up to the determination of the Secretary under the terms of the act.

Mr. WALDIE. The Congress has not in this bill given him that specific direction and said that it would be an act of polluting?

Mr. WRIGHT. The Congress has not specifically defined the quantities of matter which constitute a hazard under the meaning of the bill. It leaves that to the determination of the Secretary since it would vary in numerous instances. Obviously, a small amount of salinity in a large body of water could be harmless while a large amount of salinity in a limited quantity of water could be extremely harmful and destructive of crops or destructive of other forms of animal or vegetable life.

Mr. WALDIE. I thank the gentleman. I hope that the present Secretary will act as his predecessor has acted and declare that salt water intrusion does in fact constitute pollution.

I also want to congratulate the committee for their excellent work in bringing this bill up for consideration and I am wholeheartedly in support of it.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I am sure that the Members will be familiar with those famous lines that run, depending upon which particular version you happen to remember:

> High above Cayuga's waters
> With its waves so blue
> Stands our Noble Alma Mater
> Glorious to view.

I mention these lines this afternoon not because in the circumstances of today we have any new demonstrations or student strikes going on above Cayuga's waters at Cornell University, but rather

because one of the problems to which this legislation addresses itself is the problem of thermal pollution.

And this problem is being faced today, urgently and seriously, by those same blue waters above which Cornell stands Since part of this lake is in my district, I am concerned about its future.

Another part of it is in the district of my friend, the distinguished gentleman from New York (Mr. ROBISON), and since I have mentioned his college and his lake, I would now be very happy to yield to the gentleman briefly.

Mr. ROBISON. I thank the gentleman for yielding. I rose to correct the gentle-

[p. 9035]

man. The first word is "Far"—"Far above Cayuga's water,"—not "High."

Mr. STRATTON. I stand corrected by the Congressman whose district includes that distinguished university.

The problem in Cayuga Lake is that a nuclear-powered electric generated powerplant is soon going to be built on this very beautiful, relatively small, very slow moving lake; and if that nuclear powerplant is constructed without regard to thermal pollution, then the cool water at the bottom of Cayuga Lake is going to be taken out of the lake and used to cool the reactor and will be put back into the lake at a higher temperature.

Now, this may not seem like much of a problem, but this is what we mean by "thermal pollution." By gradually raising the temperature of a lake, you not only encourage the growth of weeds in the lake, which in the case of Cayuga Lake are already interfering with its use for recreational purposes, but you also destroy the fish and the wildlife.

I think it is important that as we deal in this legislation with various aspects of pollution we face up immediately to this relatively new problem of thermal pollution. There has been a good deal said this afternoon about oil pollution, for example, and we have some strong language in this bill dealing with the kind of tragedy that hit the beaches at Santa Barbara.

Unfortunately, what is being done about oil pollution comes after at least a good part of the barn door has already been left open, and we are being asked to close it now after a good deal of pollution has already taken place. With regard to thermal pollution, we ought to close this door before the horse leaves the barn. And I am just afraid that the thermal pollution section of this bill, although it does recognize and deal with the problem, will not go nearly far enough, because it provides in effect that the applicable State standards shall apply.

The fact of the matter is that in New York State, as in many other States, we simply do not have any really effective applicable State standards. The State Assembly has recently passed a very strong bill, but my information is that it is likely to die in the Senate, and even if it does get through the Senate the Governor may veto it. So I do not think we can afford to rely on that kind of State protection.

If they can get away with destroying Cayuga Lake and turning it into another Lake Erie, think what may happen to the lake in your district or your district.

If we begin the process of building nuclear plants in small lakes like Cayuga Lake, instead of on the ocean or fast-moving rivers, as we have done up until now, we can destroy not only this beautiful recreational section of the Finger Lakes, but we can destroy a lot of other recreational lakes as well. I think it is just not enough for us to rely on State standards that will not be effective at the start of the threat, when they are most needed. Many of the States have not even done the research in this field, as the Federal Water Pollution Control Administration has done it, and as the Secretary of the Interior has done it.

Therefore, I propose to offer on tomorrow, when we read the bill for amendment, an amendment which would

merely give to the Secretary of the Interior the power with regard to thermal pollution alone, because this is a new field, and one in which, fortunately, we have not had much destruction so far, the power to set Federal standards which will apply to all facilities constructed with a Federal agency license, so that we can lock the door before the horse is stolen and thus can successfully avoid the debacle that we now face in connection with oil pollution.

Mr. ROBISON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am happy to yield to my colleague from New York.

Mr. ROBISON. The gentleman has mentioned the absence in New York State of criteria standards with respect to thermal discharge. However, the gentleman knows that the State water quality commission is holding public hearing on tentative criteria which would attempt to control this particular problem, and there is ample authority, in my judgment, under the existing public health laws of the State of New York for the water resources commission to adopt those standards.

The gentleman mentioned bills before the legislature. Those bills might possibly strengthen the hand of the water resources commission in this connection, but I do not think we need further legislation for the State to act as it is.

Mr. STRATTON. I hope they will. There is no question about the fact that the State has authority to act. But I have been a little disturbed about some of the things I have heard. Certainly the State health department and the conservation department, which have the authority, have been very wishy-washy so far. That is why I think we should strengthen this bill at the very start, rather than waiting for the States to act. If we wait it will be too late for Cayuga Lake, and it could be too late for other lakes as well.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CRAMER. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Will the gentleman yield?

Mr. STRATTON. I am happy to yield to the gentleman from Florida.

Mr. CRAMER. As I understand, the Federal Government is requiring the States to provide water quality standards, and one of those standards required is to include thermal pollution. They are in the process now of negotiating what that thermal pollution standard should be within the respective States. So I would contemplate that in the not too distant future every State will have a thermal pollution standard established, and approved by the Secretary.

But I will say to the gentleman that when he starts talking about national standards, I do not think the gentleman from New York fully appreciates that in the State of Florida a certain number of degrees of greater heat than presently exists in a body of water that would result in a deleterious effect might be completely different with different locations in the United States. This is because that number of degrees, that might cause a disruptive effect in warm water, with other different environmental factors cannot be said to have the same effect in the cooler and different waters of a northern lake or in Alaska for instance?

The point I am making is that we do not necessarily want the same number or percentage of degrees above present temperature controls in one State, where it is warmer, and environmental conditions are different to be the same as that for the waters of another State, so I do not think we can have a national standard based upon what is known of thermal problems presently that would make much sense.

Mr. STRATTON. Mr. Chairman, if the gentleman will give me the time, I, too, would prefer not to have to set a national standard, but we are dealing with a shortage of time in this case. There may be approval by the Atomic Energy Commission to build a nuclear

powerplant on the Finger Lakes within a few weeks. Therefore, I do not think we are likely to have any strong standards in New York State by the time this problem comes up. For that reason, I think we have to act now. If a precedent is set on Cayuga Lake, it could be carried out in the Finger Lakes or in lakes in the gentleman's State.

As the gentleman knows, the standards proposed do not involve an exact number of degrees but a certain percentage over mean temperature of the water or over the temperature of the water as it is on the surface. That kind of a standard could be applied nationally without any problem, as I see it.

Mr. CRAMER. Mr. Chairman, I would suggest to the gentleman there is not enough knowledge about what the ecological and other effects of thermal pollution will be, nor up to what degrees or percentages or otherwise above what exist at the present time. From lake to lake and State to State and level to level there are the different environmental circumstances that controlled and judged by the State after approval of the standards by the Secretary. I would suggest to the gentleman this is an area best left to the jurisdiction of States and particularly where States are required to act under present law anyway.

Mr. STRATTON. If there is any lack of research, I think it is in research which has been done on a State level. A good deal of research has been done by the Federal Government, and it is presently pretty clear as to what constitutes thermal pollution of our waters and what must be done to prevent it.

Mr. WRIGHT. Mr. Chairman, I yield to the gentleman from Hawaii 2 minutes.

(By unanimous consent, Mr. MATSUNAGA was allowed to speak out of order.)

STATUES OF FATHER DAMIEN AND KING KAMEHAMEHA I TO BE UNVEILED TODAY

Mr. MATSUNAGA. Mr. Chairman, at 4 o'clock this afternoon, the statues presented by the State of Hawaii of two of its most eminent personages for commemoration in the National Statuary Hall will be unveiled with appropriate ceremonies to be held in the rotunda of the Capitol. These are the statues of the Reverend Joseph Damien De Veuster, a Roman Catholic priest, and King Kamehameha I, the first monarch of all the island of Hawaii. In behalf of the people of Hawaii, I extend to the Members of this House a cordial invitation to attend the ceremonies.

[p. 9036]

Father Damien was born in Belgium in 1840 and came to Hawaii at the age of 24. He completed his studies for priesthood a few months after his arrival in Hawaii, and in May 1864, he was ordained in the Cathedral of our Lady of Peace in Honolulu. Nine years later, in 1873, after he had served in an area on the island of Hawaii where Kamehameha was born over 100 years before, Father Damien asked to be sent to the leper colony on the tiny island of Molokai. As the resident priest on Molokai, Father Damien served his unfortunate parishoners in almost every conceivable capacity. Because of the lack of doctors, he rendered medical services. He was also an administrator, undertaker, coffinmaker, gravedigger, builder of homes, and champion of the afflicted. His compassion for his flock knew no bounds, and he labored day and night for 16 years before he died of the disease himself at the age of 49. For over three-quarters of a century since the death of Father Damien, the story of his voluntary sojourn among the lepers of Molokai has been told again and again, and it continues to inspire men and women throughout the world.

King Kamehameha, the second citizen whom we honor, will be the first monarch to grace the Halls of the U.S. Congress. He was born in the late 1750's in Kohala, on the island of Hawaii, one of the four kingdoms into which Hawaii was then divided. He was said to have been born on a stormy winter night, under weather conditions indicating the nature of his future adult life. As one of the six lesser chiefs of his island district,

young Kamehameha led the others in successful wars to insure an equitable distribution of land. After overcoming river chiefs on the island of Hawaii, Kamehameha transported his large army on war canoes to Maui, Molokai, and Oahu, successively, and these islands, along with Hawaii, were unified under his rule in 1795. The two remaining islands Kauai and Niihau, were later ceded without a fight.

This unification of the islands into the Hawaiian kingdom was the foundation from which eventually emerged the Territory and still later the State of Hawaii.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, during the consideration of the Water Quality Improvement Act, I expect to offer an amendment to provide a special program for the solution of pollution problems of such dimensions that they are not even touched by the present legislation. I think they should be separately considered as national water pollution disaster areas.

The legislation reported out by the committee provides no assistance whatsoever to so critical a problem as the Lake Erie problem with which the citizens of northern Ohio, northern Pennsylvania, and northern New York, and eastern Michigan are confronted. This Congress can no longer stand by while huge natural resources of this type are destroyed in our full sight and knowledge.

The legislation in its present form provides Ohio, along with all the other States, a sum of money which is based on a formula established under the law, with which I have no argument as far as it goes, except that it does nothing whatsoever to help us in northern Ohio solve what is the greatest problem with which we are confronted.

The people of my community have set aside a $100 million bond issue, in the city of Cleveland, to begin—just to begin—to solve the problem of reducing the contamination of Lake Erie. Under the law we consider today, we get no resources out of State funds, because the State programs are not oriented toward the most critical problem of Lake Erie pollution. These resources are used by the State for economic development, for the construction of facilities as an industry inducement. When industry goes into an area and needs a sewage system, then this money is used for economic development rather than to control or to provide some remedy for areas of existing pollution.

I should like, Mr. Chairman, to ask the chairman of the committee if, under the provisions of this bill, we can expect any help for a problem which is as severe as the Lake Erie problem? This problem is interstate, it is international, and it is beyond the capacity of any single State. What can we look for under the terms of this bill?

Mr. WRIGHT. In answer to the gentleman, the bill provides only for research into a means of assisting lakes such as the Great Lakes. It does not provide a broad or a meaningful assault upon existing pollution in those lakes, as the gentleman is very fully aware, he being completely cognizant of the water pollution legislation and he having appeared before our committee and having testified on this matter of the need for urgent attention to the lakes and particularly Lake Erie.

As the gentleman knows, the bill does not provide for a broad assault, such as the gentleman himself desired to be provided in the present legislation, on the existing pollution in lakes such as Lake Erie.

Mr. VANIK. Am I correct in understanding that under the formula provided under this bill the State of Ohio will receive about $9.5 million as the proportionate share of the grant program money?

Mr. WRIGHT. That sounds about right, under the present level of appropriations. I would not want to be held pinpointed as to the precise amount.

Mr. VANIK. Will the gentleman tell me about other special provisions which are set forth in the bill, such as authorizing the sum of $15 million for the mine acid problem? Is that in the bill?

Mr. WRIGHT. Is that the mine acid drainage?

Mr. VANIK. Yes.

Mr. WRIGHT. The bill provides $15 million.

Mr. VANIK. If the committee in its wisdom and judgment decided to authorize $15 million for this specific problem, is it unreasonable to ask the committee to come forth with some special allocation for national pollution disasters like the Lake Erie problem?

Mr. WRIGHT. The gentleman is asking a question which lends itself to an answer by opinion rather than by fact. I am, as one member of the committee, quite sympathetic to the desires of the gentleman.

The gentleman is aware of all that has been attempted through the regular water control legislation by means of grants-in-aid to municipalities up and down the streams, which are polluting these lakes.

The gentleman is aware of the budget limitations under which we have suffered in our attempts to move that program forward more rapidly. The gentleman appeared before our committee and made a very eloquent and very moving statement as to the need for a massive assault on the pollution which created in Lake Erie a dead body of water, in effect, at the core of the lake, so lacking oxygen that plant and animal life cannot survive.

Mr. VANIK. May I ask the gentleman if there is any other problem that was presented to the committee that matches the Lake Erie problem in magnitude?

Mr. WRIGHT. The answer I think would be that pollution is a nationwide problem.

Mr. VANIK. No. I say, was there any other single problem that matched the magnitude of the Lake Erie problem?

Mr. WRIGHT. I know of no situation that is worse.

Mr. VANIK. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the distinguished gentleman from Minnesota.

Mr. BLATNIK. Mr. Chairman, I wish to associate myself first with the response made by one of our most productive and knowledgeable workers in water pollution, the gentleman from Texas (Mr. WRIGHT). Also I wish to emphasize not only sympathy but the very serious concern which we share with the gentleman from Ohio with respect to the plight of all the States in dealing with the problem of Lake Erie.

Sime scientists have suggested as Mr. WRIGHT said, that it may already be, in a sense, a dead lake, in that unless massive measures are undertaken immediately, the problem may be almost irreversible. It is such a complicated problem, as I see it, that no matter how well we think we understand it—and I have spent considerable time on the technical and chemical aspects of the problem—no matter how effective we try to control lake pollution from both industrial and municipal sources, the lake has already reached such concentrations in its ac-

[p. 9037]

cumulation of solids and other materials in colloidal suspension that even the technical experts are not sure what can best be done to alleviate it.

There is, for example, matter in a liquid form, such as acids and pickling liquors, and chemicals of all types that form a fluid with a heavier density than clear, pure water. This covers most of the bottom of the lake. Some scientists believe it cannot be flushed out; that no matter how much fresh water you would pour in, it would be just like pouring cream on top of milk. The cream would just slither across the top of it. The fresh

water that you would pour in might come out at the other end, at Niagara Falls or Buffalo.

So we can see that we have a problem that is monumental and complicated as all get-out. No one knows what to do about the matter. But that does not mean that we should stop trying, or that we cannot act in other ways. There is nothing to prevent municipalities or State agencies or groups of States from getting together and using rather substantial funds which are available for aid in the form of demonstration projects or for trial grants. The kind of thing that you mentioned was done at Lake Barcroft could be done.

We know that more research is necessary. I agree with you that an enormous effort has to be made. Not only $100 million but several hundreds of millions of dollars will be required in order to clean out and to reverse the situation existing in Lake Erie so as to restore it to an acceptable level of quality and maintain it in accordance with the standards in existence now. The big problems are getting the tremendous amounts of money, and the technical knowledge, and to the limit they are available we will do everything we can to see that they are used effectively.

Mr. VANIK. I would hope, Mr. Chairman, that the Congress would not write off Lake Erie as a lost cause. I think it can be saved, and I am here pleading with you, my colleagues, for help. It is my opinion that we are now at the point where it belongs in this bill.

Mr. McCARTHY. Mr. Chairman, will the gentleman yield?

Mr. VANIK. Yes. I yield to the gentleman from New York.

Mr. McCARTHY. As the gentleman from Ohio knows, I joined in cosponsoring this pollution disaster relief bill. Coming from the shores of Lake Erie, also, I share the gentleman's concern, and I am urging the committee to consider holding hearings at an early date on the gentleman's bill with the hope that we can come up with something to deal with this particular problem.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. CRAMER. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. VANIK. I thank the gentleman from Florida.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Florida.

Mr. CRAMER. Of course, under the present law we are all concerned about lake pollution as we are river pollution and various other types of pollution throughout America. It is not only the Great Lakes but the entire country.

As I understand what the gentleman from Ohio is proposing is relief to the Great Lakes that is not now available to other equally polluted areas——

Mr. VANIK. That is right.

Mr. CRAMER. I do not know how the gentleman could justify it as compared to other polluted areas. Where is more money coming from for sewage treatment plants? As I understand the gentleman's proposal, many other areas throughout this Nation equally want such consideration and there are more needs for sewage treatment plant construction than we can fill at the present time.

We are authorizing $1 billion. The past administration recommended $214 million for appropriation out of the $1 billion authorization. The money just is not there under the present budget squeeze so as to even tool up the existing sewage treatment plant authorization, including Lake Erie. So where does the gentleman suggest the money would come from? He is recommending a special authorization and a specific sewage treatment plant for this area. This is only a small portion of the pollutant problem of these lakes. What does one do about industrial and other types of pollution?

Mr. VANIK. I might say that my amendment is not limited to sewage treatment plant facilities because the

problem of Lake Erie is going to involve some other approaches to be determined by extended research and study. There are other things that must be done to save a decaying lake. This may require an aeration process and a dredging of the lake bottom in certain areas.

Mr. CRAMER. I will say to the gentleman that there is a presently existing section in the present law, section 5(f) which provides as follows:

(f) The Secretary 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

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. CRAMER. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. VANIK. I thank the gentleman.

Mr. CRAMER. Mr. Chairman, if the gentleman will yield further, in this bill, as appears at page 76 thereof, section (g) reads as follows:

(g) The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for 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 so forth. The committee has not been oblivious to this problem. The gentleman is not really offering a solution to it unless you want to go into the payment of grants to all operations which contribute to the pollution of waters, including the operations of private enterprise.

Mr. VANIK. Does the gentleman agree that the Lake Erie problem is much different and its dimension is much greater than anything proposed in this bill?

Mr. CRAMER. I do, and that is why we included the Great Lakes in the last bill. That is why we are pinpointing the Great Lakes in this bill.

Mr. VANIK. What is there in the present bill to deal with a problem of such dimensions as the present problem which exists with reference to Lake Erie, a problem which is international, interstate, and beyond the capacity of any one State to cope with it?

Mr. CRAMER. There is $35 million in this bill to carry out this research.

Mr. VANIK. $65 million which is allocated to the several States just like the grant money.

Mr. CRAMER. Oh, no. No, it is not.

Mr. VANIK. It is parceled out just like the grant money. There is nothing for the Lake Erie problem.

Mr. CRAMER. This problem is nationwide. It is not allocated to the States alone.

Mr. VANIK. May I ask the gentleman——

Mr. CRAMER. It is nationwide insofar as on the lake problem.

Mr. VANIK. May I ask the gentleman specifically how under previous authorizations it was allocated among the States?

Mr. CRAMER. The Secretary has authority to allocate the money according to where the problem is.

I agree with the gentleman wholeheartedly. I am not arguing with the gentleman, that Lake Erie and some of the other Great Lake areas have a serious problem, as the gentleman from Minnesota suggests, but this provides the tools to do something about it to the tune of up to $65 million. The Secretary can put any or all of this into the Great Lakes.

Mr. VANIK. Not one dime has gone into the Lake Erie problem.

The CHAIRMAN. The time of the gentleman has expired.

Does the gentleman from Florida wish to use further of his time?

Mr. CRAMER. I will yield back the balance of my time.

Mr. WRIGHT. Mr. Chairman, before the gentleman from Florida yields back the balance of his time, I wonder if the gentleman from Florida, from his great and generous heart, would share with this side some 6 minutes of his time in order that two Members of the House, the only two Members remaining who have asked for time, might be permitted to speak on this legislation, the two gentlemen being the gentleman from Illinois (Mr. PUCINSKI) and the gentleman from Michigan (Mr. DINGELL).

It is my understanding that we have

[p. 9038]

4 minutes remaining on our side, so I am wondering if we might borrow some time from our distinguished colleague from Florida.

Mr. CRAMER. Mr. Chairman, after the generous statement of the gentleman from Texas about the gentleman from Florida I am persuaded, and as a matter of fact I will not even ask for a payback of the time, and I will yield 5 minutes to the gentleman.

Mr. WRIGHT. I now yield 5 minutes to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I wish to thank my colleague from Florida and the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in support of the bill H.R. 4148. I believe this is landmark legislation. The gentleman from Maryland (Mr. FALLON), the chairman of the Committee on Public Works, and the gentleman from Minnesota (Mr. BLATNIK), the chairman of the subcommittee, as well as all of the members of the Public Works Committee on both sides, deserve the highest commendation of this House for bringing this very important and historic bill to the floor of the House for action.

I would like to call the attention of my colleagues to the two scripts that I put into the RECORD yesterday. They appear on pages 8962 and 8963. These are scripts which were used in two excellent programs produced by the Columbia Broadcasting System in its "The 21st Century" presentation entitled "What Are We Doing to Our World?"

Mr. Walter Cronkite quite properly pointed out:

> Man is a thinking animal, but nonetheless dependent entirely on the ecological balance of his planet to sustain him. All the forms of life over which man has become master are similarly interrelated and dependent on one another in varying degrees.

This excellent series can be recommended here to the Members as an absolute justification for this legislation.

I should also like to call attention to a statement made by a great American, Charles A. Lindbergh, recently in New York City when he received an award from the National Institute of Social Sciences. I believe Mr. Lindbergh has placed this whole problem into proper perspective. He made the argument on behalf of this legislation for us when he stated:

> I have been forced to the conclusion that much of our scientific and technical progress is negative progress in relation to man's basic welfare: that many of the steps we take to insure our present survival lead toward a future breakdown. I have asked myself over and over again how this trend can be avoided.

Then he added:

> In trying to affect a trend, one considers its beginning This takes us back through ages to what was, in many ways, the disastrous impact of the human mind with its lack of selective judgment—a mind so paradoxical, to date, that it has achieved life's greatest knowledge and caused life's greatest evil

And he concludes—and I would like to especially call your attention to these words, because these are the words that I believe bear directly on this legislation:

> In the short period of evolutionary time after intellect gained domination over instinct, it has made man the most destructive creature upon earth.

Mr. Chairman, everyone talks about the crisis affecting our rivers, streams, and waterways in America.

There is no question that man is killing the very environment that nourishes him. Our much-proclaimed American know-how and can-do technology have not been applied to preserving the highly intricate balances of nature. We survive by utilizing the infinite complexities of our planet, but our resources are not inexhaustible. With all of our hardware and amazing technical proficiency, we have yet to find substitutes for either clean air or potable water.

Lake Michigan, which borders part of my own State of Illinois, is in imminent danger of total destruction due to wholesale pollution. Lake Erie is already comatose and virtually incapable of supporting life. There must be limits imposed on man's opportunity to destroy his natural resources.

Lake Michigan is approximately 300 miles long and 80 miles wide. Its area encompasses nearly 25,000 square miles. Before passage of legislation that permitted the Army Corps of Engineers to use this inland sea as a massive dumping area, the depth of the lake was 113 feet. Today it is 103 feet deep. By pouring millions of tons of junk and toxic material into this enormous lake, we have raised its depth more than 10 feet. This is unconscionable.

We cannot continue the heedless destruction of irreplaceable resources merely because it is "cheaper" to dispose of our waste products in this way. The question of "cheapness" or economy in general when discussing an end to pollution is academic. We must spend whatever it costs and we must begin now.

The bill before the House today strengthens our ability to end pollution and to set about mitigating its effects and regaining at least a measure of what we have lost.

As human beings who share this earth with its tens of millions of forms of plant and organic life, we can do no less than insure its survival as a life-supporting planet.

So, Mr. Chairman, tomorrow when we start reading the bill, it is my intention to offer an amendment to this bill which would repeal that part of the act of 1905 which set up and specified and utilized and authorized certain areas in the Great Lakes for dumping by the Corps of Engineers.

It is my hope that this amendment will be adopted.

We heard a moment ago the distinguished gentleman from Minnesota (Mr. BLATNIK) say that Lake Erie appears to be beyond the realm of salvation. Lake Erie is a national disaster area and its shame is shared by all of us. Tomorrow I am going to ask my colleagues to join me in barring any further dumping in the Great Lakes by the Corps of Engineers. You cannot have effective anti-dumping procedures by local municipalities and by the various States surrounding the Great Lakes when Uncle Sam through his Corps of Engineers is the largest single polluter of all.

I am not at all persuaded when the Corps of Engineers comes before us and pleads that if we do not let them dump in the Great Lakes that they are going to have to stop dredging the harbors and rivers. This is a problem that the Department of Defense will have to address itself to in order to find alternative solutions. Surely our technology is capable of supplying an answer.

Until this Congress stands up and says that the law of 1905 was a mistake and can no longer be tolerated and we refuse to permit indiscriminate mass dumping we are not going to be able to save the Great Lakes or our other great water resources.

Who in this Congress, on either side of the aisle, is competent to tell us what is the price tag on recreating a Lake Michigan or the other Great Lakes? Man can never create such a vast natural resource, but surely man can save it.

It is my hope that tomorrow when this bill comes before us, our colleagues are going to join in taking this bold but determined step. Let us here in the Congress say that there shall be no more

dumping by the Corps of Engineers in Lake Michigan and then get the rest of private industry to fall in line.

Mr. Chairman, I thank my colleagues for making this time possible.

(Mr. KARTH (at the request of Mr. WRIGHT) was granted permission to extend his remarks at this point in the RECORD.)

Mr. KARTH. Mr. Chairman, I rise in support of H.R. 4148, the Water Quality Improvement Act.

Today when this country's population is at the 200-million level we are rapidly discovering that our air and water resources are not limitless The efforts of the Federal Government have in recent years been directed with special urgency toward meeting the air pollution problem because the need for control has been demonstrated most dramatically by so-called death fogs and eye-watering smogs. This Congress has enacted air quality control legislation which now makes it possible to reduce the noxious chemicals in automobile exhaust and smokestacks. We are happily making progress in air pollution control and can soon expect real technological breakthroughs which will eliminate the most alarming threats to our air.

But it has been recently, only through the catastrophes of *Torrey Canyon* and the Santa Barbara Channel that the public has become alarmed by the tremendous problem created by the oil pollution of our waters. True, there has been on our law books since 1924 statutes to prohibit the willful and negligent dumping of oil in our navigable waters. But the scale of today's problems are so much broader and more aggravated than they were even a decade ago that new legal tools have to be provided the executive department to cope with unanticipated threats to the water resources in our environment.

H.R. 4148 as reported by the Committee on Public Works, I believe, makes tremendous steps toward up-dating the

[p. 9039]

laws dealing with water pollution by providing more stringent controls against oil and sewage pollution of our waters, research grants to combat acid and mine water pollution, and training grants and contracts to alleviate a critical shortage of skilled engineering aides, scientific technicians, and sewage treatment plant operators.

I think that it is symbolic of the new approach of this important legislation that the bill proposes the name of the Federal Water Pollution Control Administration be changed to the National Water Quality Administration.

I hope this Congress will quickly enact this bill and provide the funds necessary to implement it so that our Nation can eliminate the national jeopardy which presently threatens our water resources. I urge the support of my colleagues for the enactment of this bill.

Mr. WRIGHT Mr. Chairman, I yield the remaining time on our side, 4 minutes, to the distinguished gentleman from Michigan (Mr. DINGELL) who has been a longtime advocate for clean water and who is a member of the Committee on Merchant Marine and Fisheries of the House.

Mr. CRAMER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank my good friend, the gentleman from Texas, and my good friend, the gentleman from Florida, for so graciously making possible these few brief remarks.

Mr. Chairman, I wish to commend the distinguished members of the Committee on Public Works and the committee for the very able work they have done in presenting to this body a very fine piece of legislation, one which is well calculated to make further badly needed strides in the field of abatement of pollution of the Nation's waters and water resources.

Mr. Chairman. I have several comments on the bill.

First, with regard to the question of funding and financing. I would point out that the very best efforts, and they

have been indeed tremendous, by the Committee on Public Works and the distinguished members have been largely frustrated by the inadequate funds presented by the different administrations for the handling of water pollution.

In all of the years since the original legislation was passed back in 1956, we have appropriated vastly less than the needed funds and this year we have the administration's budget request for something like $200 million, against an authorized Federal expenditure under Public Law 660 of something like a billion dollars for this coming fiscal year.

Indeed, it is probable with the rate of the population increase and the increased level of pollutants, the higher authorized figure will fall significantly behind meeting the real needs of our Nation.

I rise also to make certain comments with regard to activities now going on in the Committee on Merchant Marine and Fisheries. As my good friends on the Committee on Public Works know, the Committee on Merchant Marine and Fisheries has been engaged in a study of legislation and holding hearings on proposals which would begin abatement of pollution of the seas and navigable waters by law.

During the existence of the Merchant Marine and Fisheries Committee this has been a matter of particular concern by that committee. The Committee on Merchant Marine and Fisheries has reported to this floor a number of pieces of legislation over the years which have dealt with this particular problem. Over the years these pieces of legislation have been enacted by this body and now constitute a portion of the permanent laws of the United States.

The Committee on Merchant Marine and Fisheries, today is considering similar legislation, much in keeping with and, indeed, substantially similar to that involved in the sections of H.R. 4148 dealing with the same subject. It is with pleasure I note that the Committee on Public Works has moved with great vigor. It is with some sadness I note some of the thoughts of the membership of the Committee on Merchant Marine and Fisheries have not been fully and, in our opinion, adequately reflected in H.R. 4148. Nevertheless, I do point out to this body that H.R. 4148 is an admirable piece of legislation. It reflects careful consideration, and I believe it makes possible long strides forward in the abatement of water pollution. And, despite the jurisdictional problems which have existed with H.R. 4148, it does take proper, and I believe desirable and, in fact, adequate steps toward the abatement of the pollution of our navigable waters by oil, something which has been a significant problem.

It was the hope of the Committee on Merchant Marine and Fisheries that this would be handled by making the Coast Guard the primary agency. It is my hope that this will still take place in connection with the cleanup of the seas of oil, because, my friends and colleagues in this body well know that the Coast Guard is the agency most immediately affected, and almost invariably the first and only agency directly on the scene when this occurs. Indeed, our cleanup endeavors during the times we have had these oil spills have largely been conducted under the leadership of the Coast Guard. That agency demonstrated a remarkable capacity for vigorous and effective action in the Santa Barbara incident and in a number of other lesser incidents.

So it is my hope that this will take place in that fashion.

I would point out a cautio to my colleagues, and that is that failure to adequately and properly center responsibility for the abatement and cleanup of oil pollution in the hands of an institution like the Coast Guard may conceivably result in a problem of the kind they had when the *Torrey Canyon* went down. During that incident it is fair to point out that there was a significant period of time during which the British Government was unable to assign re-

sponsibility and to fix the duty on any of the several agencies of the British Government for the actual cleanup of the oil. Had the Government been able to move more expeditiously under those circumstances, it is not inconceivable that damage to the British coast and the coast of Europe might have been significantly reduced.

I do report to the House at this time that the Committee on Merchant Marine and Fisheries does have a number of matters it is considering which will involve other segments of the Coast Guard's responsibility in connection with the abatement of the pollution of the seas and navigable waters by oil, and that my discussions with the chairman, with the staff, and other members of that body indicate to me there is every probability that during the next few weeks the Committee on Merchant Marine and Fisheries will continue its consideration of these matters, and hopefully will ultimately complete a useful and complementary piece of legislation, one which will add to the very able drawn and well-done piece of legislation which we have before us, in terms of increasing the ability of this Nation to abate the pollution of our navigable waters by oil.

Mr. Chairman, I thank my colleagues for making this time available to me.

Mr. CRAMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Chairman, I rise in support of the Water Quality Improvement Act of 1969.

The committee of which I am a member has worked hard on this legislation. Its leaders especially are, to be commended, as well as the staff, for the work they have done.

Mr. Chairman, this bill is good legislation and goes a long way toward solving our pollution problems. It is not a perfect bill, but it will deal with some of the critical problems that are presented today and it will pave the way for even better programs in the years ahead.

One of the best features of the bill is that which provides for training of persons in the water control area. Mr. Chairman, I was a cosponsor of the bill which resulted in this section, and can speak with some authority on the point. The witnesses who appeared before our committee pointed out the dramatic urgency of this training. They noted the severe shortage of trained personnel in almost every area of the pollution control effort. Section 20 authorizes grants and contracts to train undergraduate students interested in the design, operation, and maintenance of waste treatment works and other facilities for water quality control. The urgent nature of this need is pointed out here primarily for the benefit of my good colleagues on the Appropriations Committee.

Another important provision of the act is section 19 which deals with demonstration projects for the control of acid mine pollution. This too is a step in the right direction.

The chief shortcoming of the act, in my opinion, is the lack of provision for adequate research. Like so many problems, we have rushed into pollution control without full and careful research into the exact nature of the problem. Good, solid research to identify and isolate the problem makes solution of the problem 10 times easier.

We also need much more cooperation

[p. 9040]

and coordination among the various levels of government, and private industry, in our pollution research. My suggestion for this problem is a series of satellites research stations which would serve as coordinators of research for the overall pollution problem in a given area. They would coordinate the efforts of the various levels of government, and those of private industry.

Another shortcoming of the bill is the absence of more strict regulation of pollution by Federal activities. Our Federal agencies and activities around the country should be taking the lead in establishing new concepts and methods of

pollution control. Instead under the provisions of this act, we will still have some agencies dragging their feet as bad if not worse than some private industries.

While these shortcomings are serious—I do support the act and urge that it be passed. In the meantime, I will be introducing legislation to correct these shortcomings and hope that the committee will give early and serious consideration to my legislation.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield for a unanimous-consent request?

Mr. CRAMER. I yield to the gentleman from Texas.

(Mr. McCARTHY (at the request of Mr. WRIGHT) was granted permission to extend his remarks at this point in the RECORD.)

Mr. McCARTHY. Mr. Chairman, the bill we are considering today deals with one of the major problems of our environment. Water pollution is no longer the concern of the expert but rather is a concern of the public. Our swimming beaches have been contaminated by sewage. Our lakes are polluted or crowded with algae fed by fertilizers or human wastes. Our rivers have the stink of open sewers during the summer months. There is less pleasure in boating when owners must scrape oil and sludge from the sides and bottoms of their boats constantly. Waterways that once delighted the eye now offend; we have damaged a major natural resource.

But the time for talking about the dangers of water pollution, for calling attention to man's neglect of this natural resource is past. Opinion polls show clearly that the American public is concerned about this problem. They show clearly that the public is ready for action—not words. This demand has been recognized by Congress in the unanimous votes approving the authorization of money to construct sewage treatment facilities. The funds that have been authorized were in keeping with the size of the problem. I would have preferred to have even larger authorizations, but can appreciate the many different demands for our tax dollars.

Unfortunately, we have failed to appropriate anywhere near the amounts that have been authorized for the construction of treatment plants and sewers. For treatment plant construction we authorized $450 million in 1968; we appropriated $203 million. We authorized $700 million in 1969; we appropriated $214 million. We authorized $1 billion in 1970; the administration has budgeted $214 million. In these years alone, we have appropriated $1,519,000,000 less than the amount authorized. I think that our national priorities are sadly misinterpreted when we spend, for example, more than $350 million a year on chemical and biological warfare, weapons of questionable value, while only spending $214 million to prevent the destruction of our water resources.

What does the water pollution funding gap mean in terms of water pollution control at the State and local level? The Federal Water Pollution Control Act made it necessary for the States to develop acceptable water quality standards and to initiate programs to bring the waters within their States up to these standards. In a number of cases bond issues have been passed to assist in cleaning up their waters. My own State, New York, passed a $1.6 billion pure waters bond issue to help cities and towns build the necessary sewage treatment facilities. And New York went beyond that; it agreed to prefinance the Federal share of construction of these facilities so that there would be no delay in cleaning up our rivers and lakes.

At the local level cities and towns have passed referendums authorizing the financing of the construction of sewers and treatment facilities. The local leaders who must convince the residents of a town or village to add to their property tax to construct new sewers and treatment facilities must use a part of their political capital in building support for these referendums—the additional tax

burden is not assumed lightly.

One can imagine, then, the effect of the failure of the Federal Government to provide its share of the funds required for facility construction. New York State will not receive a fraction of the Federal funds to which it is entitled under the amounts authorized. A tax burden is thrown back from Washington on the State and local government, increasing the rapidly growing demands on State and local revenues.

Towns and villages under legal order to clean up pollution find that they do not have the funds to do the job. They know that the cleanup has been ordered by Washington—why, then, does not Washington do its share and provide the promised assistance?

In fairness it must be recognized that the demands of the Vietnamese conflict have kept domestic spending at much lower levels than had been desired. Many worthwhile programs were cut back and many others failed to see the light of day as a result of the economics brought about by the war.

The shortage of funds for water pollution control while the Vietnamese conflict is going on was recognized, however, and a remedy was suggested. Last year's water pollution control bill contained a provision that placed the financing of treatment facilities on a capital basis rather than on a annual basis. This is a technique whereby the Federal Government agrees to pay the principal and interest on a 30-year bond issued by the State, town, or village to cover the cost of new facilities. Rather than giving the community one lump sum to cover the Federal share in the first year, the Federal Government would only have to pay roughly one-thirtieth of the cost each year. This would make it possible to start many more projects than could be initiated following the present lump-sum approach. As you may recall, both bodies of Congress passed that legislation last year but it failed to clear the conference committee at the last minute.

Recognizing the value of this financing approach to the task of water pollution control, I reintroduced a comprehensive water quality bill in this session of Congress. I was joined by 24 of my colleagues in that action. The companion bills—H.R. 7734 and H.R. 7767—both include a financing section identical with that passed by both bodies of Congress in the last session. It has been my impression that those concerned with water pollution control realize that this capital financing approach is a most effective way to make the limited funds available go as far as possible.

Both the House and the Senate committees dealing with water pollution control have deferred consideration of financing proposals for this activity until the new administration has had an opportunity to review their budget and make any proposals that they believed desirable. As a matter of courtesy, financing provisions are not included in the bill considered today.

I have learned, however, that the administration will propose an appropriation of $214 million for the construction of water pollution control treatment facilities. And as far as I am able to determine, this request will not include a provision for capital or long term funding. If this is the case, $214 million is totally inadequate. Apparently, Secretary of the Interior Hickel recognizes this, for I understand that he requested a total of $600 million for this purpose, only to be turned down by the Executive Office of the President.

If the Federal Government does not do its share, what can we legitimately ask the State and city to do? Can we hold enforcement conferences and demand that localities upgrade their treatment facilities? Can we ask the cities located along Lake Erie or along the Mississippi or Missouri to build secondary rather than primary treatment facilities? This sort of hypocrisy is one of the roots of dissatisfaction with Washington found at the local level.

I hope that the Rivers and Harbors Subcommittee of the House Public

Works Committee will be able to hold hearings on my bill to provide adequate financing for water pollution control in the near future. This legislation is important to our environment. Neglect now will mean destruction later. We cannot afford to wait.

Mr. LEGGETT. Mr. Chairman, I am glad I have the opportunity at this time to comment on this bill, and express my wholehearted approval of this measure designed to start the long-delayed assault on water pollution which has affected this country for so long, but which has been marked by serious inaction on the part of the Government. The problem has reached a critical stage, but I am hopeful that quick action now can stop further damage to our en-

[p. 9041]

vironment and start to roll back the damage already done.

It is incumbent upon us to pass H.R. 4148. Further delay may very well make the problem insoluble, forever relegating our lakes and rivers to open sewers infesting all surrounding areas.

In my district in California we have one of the most beautiful bodies of water in the State, Clear Lake. This lake has long been recognized as one of the leading recreational waterfronts in the area, and its existence has spurred the development of the surrounding land area. As is the case in so many of these situations however, the development of the surrounding landscape has upset the entomology of the land. In the case of Clear Lake, development of surrounding land areas has begun to fill the lake with raw sewage and waste. Engineering reports clearly indicate the damage done by the invasion of algae which has upset the natural balance of this beautiful body of water, and will soon make it unfit for human use.

It is not too late to turn the tide however. This bill is a good start toward an all encompassing fight to reverse the damage done by man to his natural assets.

I view this measure as an economy move. If we do not get the funding now, the costs will be immeasurably higher later. I think we are all agreed that action must be taken at some time. In the case of water pollution, delay will mean added expense at a later date. The studies on the Clear Lake problem point this up. As the pollution gets worse, the corrective measures will be far more expensive. I do not think anyone on the floor today disagrees with the proposition that the problem must be faced at some time. In this time of fiscal extremis however, many of my colleagues feel that all but the most urgent spending measures must be curtailed. I generally agree. But in this case I feel that the fight for control of environmental pollution is possibly the most urgent priority on the legislative agenda. Delay now will at best make corrective measures more costly in the future. At worst we will have passed the point of possible correction and will be forced to forever consign these areas of natural beauty to putrid wastelands. The problem of Clear Lake is a prime example. We must not allow this body of water to become an open sewer that will forever be lost to the citizens of California and the Nation.

Mr. ANDERSON of California. Mr. Chairman, I rise today to join with my colleagues in expressing my strong support for H.R. 4198, the Water Quality Improvement Act of 1969. This is the type of legislation that is very badly needed to clean up our polluted waters and harbors and keep them free of oil and sewage pollution.

If we are ever going to restore our environment to its natural state so that it can be enjoyed by all free of contamination, we must begin now. For too long we have allowed technology to alter the environment without attention being paid to the consequences. This legislation is a good step in the right direction.

The Water Quality Improvement Act of 1969 essentially will do five things:

First, it will make shipowners liable

for oil discharge or spillage up to $10 million and provide criminal penalties for failing to report such discharge or spillage as well as civil penalties in cases of willful or negligent discharge.

Second, it will set up a $20 million revolving fund for reimbursing states assisting in cleanups of pollution.

Third, it will direct the Secretary of the Interior to stop discharge of sewage from vessels by development of marine sanitation devices on ships.

Fourth, it would authorize up to $15 million for a demonstration program on acid pollution from mining.

Finally, it would appropriate funds for research into water pollution and development of water quality control facilities.

This legislation is urgently needed, particularly in light of the recent tragic oil spill off the coast of California. The incident served to focus increased attention on this important problem and helped us bring this legislation to the floor of the House today. I am hopeful the Water Quality Control Act of 1969 will pass both Houses of Congress and will be signed by the President. We just cannot afford to wait any longer. The showdown between a continued polluted environment and a return to a clean environment is at hand.

Mr. EDWARDS of California. Mr. Chairman, I have but one complaint about the bill now being considered by this House. It does not do enough.

All of us were shocked by the oil discharge which polluted the Santa Barbara coast, and this bill speaks to such pollution in part, but I wish to speak of 100 years of pollution of an even more fabled resource, San Francisco Bay, and the unreported results.

Let me make the facts clear: Much of San Francisco Bay is now septic. Much more of the bay will become septic unless something is done.

Some of the provisions of this bill directly attack the problems of San Francisco Bay and I support the bill. However, this bill still represents an approach which is "too little and too late."

The magnitude of the problem is San Francisco Bay was spelled out in a recent study which called for a master sewer system to cost the communities involved $2 billion between 1970 and 1990.

The crisis facing San Francisco Bay is not one that has come slowly, nor is it one that all of the people around the bay have ignored. In fact communities and industries around the San Francisco Bay have spent $28 million in their efforts to clean up the bay and to keep it clean. Within my own district, as an example, San Jose and Santa Clara have spent $35 million on a new sewage treatment plant. This last year the voters of these two cities by a two-thirds majority margin approved the expenditure of another $30 million. Most other communities around San Francisco Bay, under the leadership of the San Francisco Regional Water Quality Control Board, have made similar sacrifices.

The condition of bay waters is better today than a few years ago because of the continuing sacrifices of many bay area taxpayers and because of the leadership of the water quality control board. Marine life is returning to the South Bay, harbor seals are once more able to survive in the bay, dead waters have returned to life.

Despite the dramatic improvement in the quality of some of the waters of the bay, red tides have started to appear, tides which may well mark the biological death of the bay, and massive reports of fish kills have become more frequent.

Health officials still warn the public not to eat the oysters of the bay, because they carry sewage-borne diseases.

The same health officials warn some of the waters of the bay are dangerous for body contact sports. These waters, because of sewage, can carry diseases in their spray.

The efforts of 90 of the 91 cities around the bay and of the water quality control board have suppressed many of the sewage odors of the past, restored the quality of waters so fish can live in them, but increasing loads of pollutants, nutrients,

chemicals and toxics are undoing the good work of the past.

Obviously we have not done enough.

And the tides of growth are still pouring into the San Francisco Bay area, bringing more people to join the 4.5 million already living around the bay, and bringing more human and industrial wastes.

At the same time there are those who wish to fill the open water of the bay for profit, further limiting the circulation of the waters in the bay, while at the same time increasing the loads it must absorb.

We are not too far from the point where the only use of San Francisco Bay will be that of an open sewer.

Most of us who live around the bay are committed to a clean bay, a healthy bay, a bay seeable by the public. Yet, I must point out there are two public bodies which have not fulfilled their public responsibility to insure raw sewage and industrial wastes are kept out of the bay.

They are the city and county of San Francisco and the Federal Government

Let me first say a few words in defense of the combined city and county governments of San Francisco. San Francisco is the second oldest city, next to San Jose, in the bay area, it has a shrinking population of 740,000 out of a total bay area growing population of 4.5 million, and it is the only city with a combined storm drain and sewage system. Thus, it is the only city of the 91 around the bay which regularly dumps its sewage raw, not only into the bay, but also on the beaches where its children play.

The problem is simple: When it rains as little as two-tenths of an inch an hour, really only a heavy fog, the city's overburdened combined storm drain and sewage system overflows, resulting in the present unsightly, unhealthy, and putrid conditions. It may take up to $1 billion to correct this problem.

San Francisco, faced by other massive problems of the inner cities, needs far more help than that offered in this bill.

[p. 9042]

It also needs to face its sewage problem and to inform its people of that problem.

The second major offender is the Federal Government.

At present at least 12 Federal installations are polluting San Francisco Bay.

An estimated 500,000 gallons of industrial wastes, including, but not limited to, cyanide, flow into the bay from the Alameda Naval Air Station. These wastes are discharged at the water's edge, not even taken out to deep water where the damage they do might be diluted. Mare Island pours an additional 150,000 gallons of similar industrial wastes into the bay, the Concord Naval Weapons Station contributes 3,000 gallons a day, and the Point Molate Facility near Richmond, discharges 10,000 gallons a day of treated, but substandard, wastes.

The hard pressed San Francisco Regional Water Quality Control Board has no authority over these Federal installations.

The U.S. Navy has promised to hook up both the Alameda Naval Air Station and Mare Island to local sewage treatment plants during fiscal 1969–70, if the funds are available. Short as funds are this year, I pray that they will be available.

The bill we are now discussing says:

> Each Federal agency having jurisdiction over any real property or facility of any kind shall within available appropriations and consistent with the interests of the United States insure compliance with applicable water quality standards.

I for one wish this provision were stronger. Pollution is not in the interest of the United States.

Finally, ships of the U.S. Navy, including its giant aircraft carriers discharge their sewage raw into the bay, not only as they pass in and out of the bay, but also as they rest in harbor. In effect, they are moveable, small cities, polluting the bay as they go.

Again this bill speaks to the point, but in a manner I wish were more effective. The bill calls for waste treatment standards for civilian shipping, but in the case of military vessels it leaves the decision up to the Secretary of Defense.

I would hope all of us would agree the U.S. Navy should stop polluting San Francisco Bay.

The waters of San Francisco Bay face one more major Federal threat—a threat not created by the people who live and work around the bay. It is called the San Luis master drain and it will dump, for it is now under construction, millions of gallons of agricultural waste waters, carrying pesticides and nutrients, into this already polluted bay. The drain will bring its pollution to the bay even as the fresh waters, which once flushed out the bay, are cut off by Federal and State of California water projects. I would refer any of my colleagues, who might wish to explore this problem further, to the statements of Congressman JEROME WALDIE, whose district faces disaster because of this drain.

The story of the pollution of San Francisco Bay is a long and sad tale, told not often enough. Even today the people of the city and county of San Francisco know little about the condition of their own beaches. However, the job of education of the public about bay problems has been done well by the San Jose Mercury and News and the Oakland Tribune. The most recent and one of the best of these accounts was written by Mr. Fred Garretson of the Oakland Tribune.

Mr. Chairman, I will include Mr. Garretson's stories at the conclusion of my remarks, so every Member of Congress will have available the story of the polluted San Francisco Bay.

The problems of San Francisco Bay are not unique. Many areas of my State, and of the Nation, face similar problems. In Washington we only need go to the banks of the Potomac River to bring ourselves face to face with the ugly facts of water pollution.

I speak in favor of this bill, not because it is as much as we can do, but because it is the least we can do.

The articles referred to follow:

OUR POLLUTED BAY SAN FRANCISCO'S FLOOD OF SEWAGE—TOUR OF WATERFRONT BARES FILTH PROBLEM

(By Fred Garretson)

It is one of those pleasant afternoons in San Francisco when a brisk little storm has cleared away the fog and the citizens of the most sophisticated city in the West go down to the beaches and the Bay to play among the streams of raw brown sewage draining out of fancy hilltop apartment houses

Near Phelan State Beach Park, two teenage girls romp happily among the sewage that flows across the beach like a small river and mixes with the ocean waves.

Near Lake Merced, children from Park Merced Towers build sand castles out of the easily molded brown sludge that stains their beach

At Lincoln Way, where Golden Gate Park meets The Great Highway, a shallow, 20-foot-wide sewage stream flows across the public beach and strolling couples make agile leaps to keep the water out of their shoes

Near Fleishhacker Zoo, where the outflow of the Vicente Street sewer has carved a rolling valley into the shifting beach sand, a woman with a dog on a leash stops to let the thirsty animal drink out of the sewage stream.

This is a typical nice day in San Francisco.

It would be any one of at least 61 days between October and May when the city's antique "single pipe" municipal sewer system overflows Then raw, untreated sewage drains into the Bay and ocean from 38 "sewer diversion structure outfalls" along the waterfront.

During dry weather the municipal system intercepts most of the sewage—except during what state officials describe as the "regular" once-a-week breakdown—and provides a low degree of treatment before the waste is discharged into the Bay and ocean.

But a trace of rain—only 0 02 of an inch of precipitation per hour—pours storm water runoff from the streets into the sanitary sewers, overwhelming the treatment plants and sending raw sewage onto the beaches, marinas and around the docks.

The sewage streams are plainly visible after a storm

Near the Marina Green, boats twist against their mooring lines in the current flowing out of the Pierce Street sewer

At Aquatic Park, one of the leaders of the city's cultural enlightenment steps out of the locker room at the Dolphin Swim Club, takes a deep breath of the salt air blowing through

the Golden Gate, and then dives into the water amid the flecks of toilet tissue dancing on the waves

At Baker Beach State Park the favorite picnic spot is a deep, somewhat smelly, lake gouged out of the beach by the sewer outfall at a spot far above the high tide line. Children say it's a popular swimming hole for those who want to avoid ocean salt water and is frequently used by sunbathers to wash sand off their skin.

The river of sewage pouring out of this lake to bisect the public beach is so wide that only an athletic teenager, who takes a running jump, could get across without getting his feet wet.

At the foot of Pierce Street children scramble over the big concrete outfall pipe and fish among the flecks of human waste and detergent foam which gushes into the Bay

The view from the dining room picture window at St. Francis Yacht Club is dominated by the sight of the Baker Street sewer pipe, which sits on the beach like a grounded whale discharging bubbling, turbulent water just off the shore.

At Fisherman's Wharf, a honeymooning couple sit in a famous restaurant watching the fishing boats rise and fall on the oily waves where the waterfall sound of the Hyde Street sewer is lost among the sound of waves washing among the piers

Only three years ago health officials had to order three fish packing companies in San Francisco to stop washing their floors, cleaning fish and swabbing out fish packing cases with water pumped out of the Bay a few feet from a raw sewage discharge point

Farther east, near Pier 33, a brown upwelling in the Bay tinges the air. Within a few more hours—if it doesn't rain again—the North Point sewage treatment plant will be back under control and able to chlorinate the sewage flowing out of the homes of 409,000 San Francisco residents in the north point "sewage watershed."

Farther south and east along the waterfront, where pretty girls drink coffee in open air lunch rooms on the docks, there are flecks of sewage solids coating the pilings that support docks and office buildings on the waterfront.

At Islais Creek there is a foul smell in the air where the unchlorinated sewage of 161,000 residents, and the flow from the South-of-Market industrial complex, pours through primitive machinery at the Southeast sewer treatment plant and is discharged to fester in the oily waters of a dead-end lagoon

Northward, at the heart of San Francisco's maritime commercial center, five full sewers of raw waste pour into the dead-end channel of China Basin.

Just south of Pier 50, where people daily wade into the water at the municipal boat launching ramp, is the outfall of the South Fourth Street sewer The line, until recently, discharged the waste of an industrial neighborhood 365 days a year—pipes weren't connected to any treatment plant.

Prudent folk might worry about wading into San Francisco's waters where a raw sewage discharge pours into the Bay at every single marina in the city.

But boat owners can find one thing good: human sewage has special powers as a wood preservative Boats floating in sewage—and wooden pilings in polluted water—are protected from the effects of teredo and limnoria, the Bay's destructive salt water termites

From a helicopter, flying along the waterfront to San Francisco International Airport, passengers can almost always see a two-mile long tongue of brown, polluted water pouring out of Islais Creek at the rate of more than 15 million gallons per day in the summer time, and much faster in the winter.

The great tongue of brown water wavers like a living thing on the Bay's tidal currents—swinging miles south along the waterfront toward Hunters Point with the incoming

[p. 9043]

tide and then licking north toward Potrero Point on the ebb tide

The ebb tide sends the brown water up into the intake pumps at Bethlehem Shipyard where workers are drenched in polluted water while washing ships At flood tide it's the U S Naval Shipyard workers who get bathed in sewage.

The wavering brown tongue also engulfs the favorite swimming spot where children from the Hunters Point neighborhood dive into the Bay It's prohibited, of course, but at any time on a good day, health inspectors see 20 children in the water at a time.

The weekends are probably the least polluted times in San Francisco because the factories are closed and the offices of hundreds of thousands of commuting workers are empty

At such times, there are only the toilets of 740,000 residents to pollute the Bay

In the rainy season one can be quite sure of finding the flow of raw sewage pouring out from a given neighborhood

That stream of raw sewage that carved out the swimming hole on Baker State Beach comes from Mayor Joseph Alioto's neighborhood

The Jackson Street sewer flow near the Ferry Building comes from the financial district Haight-Ashbury sewage drains both toward China Basin and to the ocean beach of Golden Gate Park.

This is a waterfront tour you won't find

listed in any guidebook issued by the Chamber of Commerce or the San Francisco Tourist Bureau

It's a summary of facts—neither the best nor the worst facts—listed in a little-known book issued by the Bay Area Regional Water Quality Control Board.

The title is "Staff Report on Long Range Plan and Policy with Respect to Water Pollution Control in That Portion of the City and County of San Francisco Which Drains Into San Francisco Bay."

You might find a copy of it at San Francisco City Hall

It should be easy to find at the public library, because almost nobody ever looks at it.

"The City That Knows How" doesn't like to think about its sewage problem

---

AN OMINOUS "RED TIDE" THREATENS BAY'S FUTURE

(By Fred Garretson)

On a cloudy morning during the last week of April, 1966, the passengers aboard Doug Webb's party boat "Sturgeon" caught a whiff of a strange, fishy smell rising out of San Pablo Bay

Seconds later, flecks of red foam leaped up in the wake of the motorboat and for the next few minutes Webb sailed through what looked like a great mass of burgundy wine spilled into the blue waters of San Francisco Bay.

Carl Bennett Jr, owner of the Rodeo Marina, also saw the same thing and telephoned the officers of the Bay Area Regional Water Quality Control Board to report that, "There's something wrong out in the Bay"

This was the first official record that the so-called "red tide" had appeared in San Francisco Bay.

To the scientists and engineers who study the Bay, the appearance of the red tide was a deadly warning sign, that man's constant dumping of sewage and poison had overwhelmed the Bay's ability to cleanse itself

It might, they said, be a symptom the living Bay was about to become a sterile dead sea

The mysterious red phantom continued to haunt all parts of the Bay during the spring and summer months of 1966, 1967 and 1968 It's expected to appear again in about April of this year

Despite 20 years of effort, the Bay pollution problem is getting worse, according to Fred Dierker, executive officer of the regional water quality agency in the nine Bay Area counties

He said the sewage smell has been suppressed and many forms of fish life have returned to the Bay, but the buildup of sewage chemicals in the water has turned the Bay into a biological time bomb

"We don't know why the red discoloration appeared or what it represents," Dierker said, "but we think it's one more warning sign that the Bay has become overloaded with pollution, nutrient chemicals and toxics"

He said the red discoloration isn't the true "red tide"—a toxic, fish-killing algae which is limited to the Atlantic Ocean and is most commonly reported near Florida.

"What has appeared in the Bay is a red phytoplankton growth There's no evidence that it kills fish or reduces the oxygen content of the Bay water," he said

Perhaps it has always been present in the Bay waters, but is now spreading across the Bay in great red blankets because pollution has upset the balance of nature

William Macke, the district's field engineer who has spent most of his time during the past 12 years taking water samples in all parts of the Bay, described it this way

"The red discoloration is generally several thousand feet long and about 150 to 200 feet wide, but sometimes spreads out much wider.

"It's very visible from the air It looks like a herringbone pattern on the wave crests, but in quiet water it spreads out flat like a blanket It's usually out in the center of the Bay although it also appears in shallow water

"It's also clearly visible from a boat. As you approach it there's a definite line of demarcation between normal Bay water and the red discoloration

"As you pass through it you can see red waves on all sides and a churning red bow wake behind a motor boat.

"It's like sailing through a sea of burgundy wine

"There's a distinctive fish odor—that's the only way to describe it—while you're passing through it In fact, that's how you know you're approaching it You smell it

"It's kind of weird We know its composed of billions of individual living things, but sometimes it acts like one big creature. The scientific studies have confirmed that it has swimming ability and can move around the Bay

"Usually it's right on the surface, but once we went looking for it at night and it had dropped down under water to some depth It apparently comes up to the surface in the daytime

"One day it looks like a big single mass and the next day it's broken up in strips and streaks, depending on the weather conditions It persists for a long time," Macke said.

Although it's been seen in all parts of the Bay, the greatest number of reports come from the South Bay, where pollution problems are greatest Reports have been particularly numerous around Burlingame and Coyote Point in San Mateo County

Macke said the worst discolorations appeared during the summer of 1967, a peculiar

year when a lot of strange things happened in the Bay.

Thousands of dead and dying sting rays came to the surface.

Hundreds of sharks seemed to commit suicide by swimming up onto beaches and mudflats as if they were trying to climb out of the Bay. Scientists carried some of them back to deep water, but the sharks swam right back up onto beaches.

But 1967 was also the year that record numbers of seals appeared in isolated areas along the Eastbay shore. There was a population explosion among shrimp in San Pablo Bay and for the first time in decades commercial shrimp fishing resumed in the Bay.

A lot of people cheered that the return of seals and shrimp was a good sign indicating that Bay pollution was being cleaned up. As for the death of sharks and sting rays . . . well, it's hard to get indignant about it.

But biologists were alarmed. Sharks are like humans, predators at the end of the food chain, feeding on smaller animals which in turn eat smaller plants and animals right down to the most primitive organism that would be most sensitive to pollution.

The pessimists warned that the mass death of sharks might indicate that pollution had shattered the bottom of the food chain. Vital microorganisms and plants might be dead or poisoned, passing on poison to bigger animals, destroying their nervous systems so that sharks went mad.

A reduction in the population of some predators—because of starvation or poisoning—might also lead to a population explosion in other creatures—like shrimp.

The optimists said sharks are strange creatures and some species in other parts of the world have sometimes been observed performing the rite of mass suicide. So do lemmings.

The optimists said it might be a sign fish life was improving in the Bay and now the shark population had expanded so much that mass suicide in the Bay was more likely to be noticed.

The red tide was a disturbing fact, but there were unconfirmed reports of sightings before April, 1966, and a few people say they saw something like a red tide—which wasn't studied at the time—appear in Richardson Bay 15 years ago.

These earlier reports could be interpreted either as an early warning of potential ecological disaster or as an indication that red tide had been around for many years.

Ecology is the science which studies the total web of life, the environmental interrelationship between plants, animals, man, the landscape, the weather, etc.

And ecology will be the forum of debate in the next few years about how—and whether—to spend hundreds of millions of dollars cleaning up the Bay so the Bay Area might become a more livable place for many creatures—including man.

Ecological arguments, often involving extremely technical disputes within—and between—scientific and engineering disciplines, are hard for a layman to judge—and sometimes people miss the whole point of the discussion.

For example, on Jan. 27 the regional board proposed some controversial engineering standards and goals aimed at cleaning up the Bay to the point where the water could meet the extremely rigid standards necessary to reestablish commercial oyster farming in the Bay.

A major industry spokesman denounced the idea of spending vast sums of money to benefit some unknown future oyster farmers because, he said, "It would probably be cheaper to import oysters from Australia."

Regional Board officials patiently explained oysters were only one facet of the proposal—a yardstick by which water quality could be measured. A Bay clean enough for commercial oyster raising would produce a host of other ecological—and economic—benefits.

But the protest was valid: Money is one part of the ecology of man, and it weighs heavily in the efforts to restore the ecological balance of the Bay.

Since 1950, when the legislature created the regional board under provisions of the Dickey Act, the board has persuaded or compelled Bay Area cities and sewer districts to spend more than $300 million on sewage treatment facilities, Dierker said.

Industries have spent an undisclosed number of millions more.

But what has been the result?

The most noticeable effect is the horrible

[p. 9047]

hydrogen sulphide (rotten egg) smell is gone from most parts of the Bay.

Motorists no longer have to roll up their windows to keep out the stench when they drive along the Bay Bridge approaches at Emeryville.

At one time, local officials say, airborne chemicals wafting off the Bay were so caustic that fresh coats of paint would peel off of structures within two blocks of the Bay.

The first big sewage clean-up efforts came in the 1950s

In the decade of the 1960s, the people of the Bay Area rediscovered the Bay.

Boat ownership has skyrocketed bringing with it an economic boom in marinas, waterfront restaurants and water-related recreation.

The property value of formerly depressed waterfront land has risen sharply. In Marin County alone the assessor estimates the value increase was one-third of one per cent per

day in the mid 1960s.

There's a big and growing demand for homes beside the Bay In Alameda's Fernside district homes inland from the Bay used to be worth more than those beside the water Today the waterfront homes are worth thousands more.

The same thing happened at Point Richmond.

Even in the polluted South Bay, private investors are willing to pour millions into waterfront subdivisions like Foster City or recreational complexes like Marine World

The shipping business, which has to be on the waterfront, has been hard pressed in San Francisco where business and professional men keep moving offices into converted docks or warehouse buildings because they want to be next to the water

There is abundant evidence of the return of all kinds of Bay plant and wildlife which almost vanished when bay pollution became serious in the first decade of the 20th Century.

Today many scientists, and even some investors, talk about reviving the oyster farms which used to be an economic mainstay of the Bay Area There are some dizzying estimates about the potential profit of establishing other types of "farming-of-the-sea" industries in the protected waters of the Bay if pollution is eliminated.

But is pollution being eliminated?

No, says Dierker

The regional pollution control board has consistently maintained it's running on a treadmill trying to keep ahead of the growing population and industry of the Bay Area which now pours at least 667 million gallons of sewage and industrial waste into the Bay every single day

Most of the municipalities around the Bay have built, or are building, advanced sewage treatment facilities, and some of them—such as Valley Community Services District in the Livermore Valley turn out an effluent which comes close to meeting the U S Public Health Service standards for drinking water

In 1965 the legislature established the Bay-Delta Study, a state agency, to prepare a waste disposal master plan for the nine Bay Area counties, plus portions of the Sacramento-Stockton-Tracy area east of the Sacramento-San Joaquin Delta

The Bay-Delta Study report will be issued next month

One of the major problems, Dierker said, is that existing sewer treatment doesn't remove nutrient chemicals (nitrates, phosphates, etc) which are continuing to accumulate in the Bay.

"The level of nutrients in the Bay already exceeds the theoretical level at which 'algae blooms' should form all over the Bay The blooms already exist in Suisun Bay, the Napa and Petaluma Rivers and some sloughs in the South Bay," Dierker said.

The algae blooms he foresees are great "rafts" of scum floating over all parts of the Bay depriving the water of oxygen, killing fish, fouling boat propellers and washing up on the beaches and tidelands to rot in the sun

"Apparently something is suppressing the algae blooms so far. Perhaps some minute quantity of a trace chemical is missing," Dieker said

The missing trace chemical—if that's what it is—could appear almost any day in a casual discharge from some industrial process or perhaps the coloring material in a new brand of toilet paper or maybe as a residual from a new fertilizer used to grow the potato peelings that get thrown into a garbage disposal.

Dierker said that the Bay-Delta Study report will say that there has been a startling increase in the nutrient level of Bay waters during the past four years

The claim of the sudden sharp increase might be challenged on statistical grounds, but there is no doubt that the existing nutrient level in the Bay already exceeds the algae bloom level, he said

The Bay has become a biological time bomb, and every flush of the toilet or clank of the kitchen garbage disposal adds more fuel

If and when it explodes, this great nine-county urban area could be a metropolis sitting on the shores of a dead sea.

EASTBAY CITIES' RIVER OF SEWAGE
(By Fred Garretson)

The second biggest river emptying into San Francisco Bay is a river of sewage

It discharges about 40 feet below the surface at a spot just south of the Bay Bridge, 2,000 feet east of Yerba Buena Island.

It's the flow of sewage from the cities of Oakland, Berkeley, Alameda, Emeryville, Albany and Piedmont discharged by the East Bay Municipal Utility District Special District No 1 sewage treatment plant in West Oakland

It's bigger than the Napa River

(Engineers, who regularly translate total annual flows into small increments for easy comparisons, say the mean annual discharge of the EB-MUD sewer pipe is 127 cubic feet per second while the Napa River flow into the Bay is only 114 cubic feet per second)

That single sewer pipe discharge is bigger than the combined annual flows of ALL the rivers and streams flowing into the Bay south of San Francisco

The EBMUD sewage flow is probably big enough to have some effect on the tidal currents of San Francisco Bay.

The only bigger flow into the Bay is the 20,255 cubic foot per second annual outflow

of the Sacramento-San Joaquin Delta, a figure which includes all the winter floods draining out of watershed that includes 40 per cent of the land in California and stretches from the Oregon Border to the Los Angeles County line.

But while EBMUD is the biggest single discharger, the combined flow from the city of San Francisco's antique sewer system is bigger—but no one knows how much bigger

San Francisco's three sewer treatment plants keep records, but the city has 38 raw sewage overflow pipes which overflow every time it rains—and only one of them has ever been measured.

A key difference between East and West Bay is that EBMUD discharges treated and disinfected sewage in deep water whereas San Francisco's treatment plants and raw sewers discharge right at the water's edge, sending streams of raw sewage flowing across public beaches and leaving brown water lapping against the piers.

Figures compiled by the Bay Area Regional Water Quality Control Board three years ago showed that the total municipal and industrial waste water discharge from the nine counties around the Bay was 541 cubic feet per second

This man-polluted flow dwarfs the 332 cubic feet per second combined flow of all the local streams and rivers flowing into the Bay (not counting the Sacramento-San Joaquin Delta).

The board said that sewage and industrial waste accounted for 2.7 percent of the net total flow of all water into the Bay system.

But with cities and industries expanding rapidly, and new dams in the mountains reducing the outflow of river water into the Bay, sewage will soon be a major source—perhaps the major source—of the water flow entering the Bay.

During the summer time waste discharges are already equal to more than one-third of the carefully regulated flow of 1,500 cubic feet per second from the Sacramento-San Joaquin Delta.

If it weren't for the constant release of water from Shasta Dam in order to flush Bay salt water out of the fresh water channels of the Delta, the flow of sewage from Bay Area cities would probably exceed the flow of the Sacramento River during many summer months.

The winter floods now flush out the Bay's accumulated pollution, but a report to be issued by the state's Bay-Delta Study next month is expected to say that dams constructed for the California Water Plan will cut off most of this flushing flow by the end of the century.

Fred Dierker, executive officer of the regional pollution control board, said the degree of sewage treatment varies widely in different parts of the Bay.

He said 90 of the 91 cities in the Bay Area now treat their sewage San Francisco is the only municipality with a system designed so that raw sewage flows into the Bay whenever it rains causing the system to overflow.

The only other significant raw sewage in the Bay comes from ships and boats, but the state and federal governments are starting a crackdown on these polluters.

The general types of sewage treatment are:

Primary: A primitive system in which sewage stands in tanks long enough for floating material to be scooped off and heavier particles are allowed to settle out.

Intermediate Sometimes called "advanced primary" Chemicals and bacteria are added to break up smaller particles. Sometimes disinfection is added.

Secondary: Usually involving processes called "activated sludge" or "trickling filter" treatment. Sewage passes through several treatment tanks, some of which add oxygen to help stimulate natural biological processes in the Bay which aid in sewage assimilation. This effluent often meets health standards for "swimming pool quality water"

Tertiary. Various advanced—and expensive—treatment processes which turn sewage into a liquid that might meet U S. Public Health Service minimum standards for drinking water.

The most recent (1966-67) compilation by the regional board showed that, "398 million gallons of treated sewage and industrial wastes are discharged daily during dry weather to the tidal waters of the Bay from 77 municipal sewerage systems.

"Approximately 35 per cent of these waste flows receive secondary treatment at 23 sewage treatment plants with the remaining flow receiving primary treatment at 54 sewage treatment plants," Dierker said

He said 47 municipal waste dischargers, who dump 245 million gallons per day, have facilities to disinfect their sewage discharge, although some of them don't always use them or vary the amount of disinfection seasonally.

Another 32 dischargers, with a total waste flow of 153 million gallons per day, don't have disinfection facilities, he said.

Three big sewage treatment plants account

[p. 9045]

for half of all municipal sewage discharges into the Bay· EBMUD; The San Francisco North Point plant, and San Jose

The EBMUD flow gets "advanced primary" treatment, according to Dierker Because of its discharge in deep water under good tidal conditions, "EBMUD treatment is considered adequate for the present, but it might not be good enough for conditions within the next few years," Dierker said.

San Francisco's North Point plant (one of three San Francisco treatment plants) discharges 487,000 gallons per day near Fisherman's Wharf This flow received only primary treatment but is disinfected during dry weather

However, a slight rainstorm overwhelms the San Francisco system and causes untreated sewage to discharge through 38 bypass pipes.

San Jose's new, ultramodern sewer plant provides "secondary" treatment for its more than 1,240,000 gallons of sewage per day, yet even this very advanced process fails to meet the regional board's standards because of stagnant tidal conditions in South San Francisco Bay, Dierker said.

In addition to the Bay Area's 398 million gallons of municipal sewage, there is a total flow of 269 million gallons per day of industrial waste discharged directly into the Bay by 44 industries, Dierker said.

Approximately 94 per cent of this industrial waste total is water used to cool industrial machinery, mainly in electricity-producing steam plants, oil and chemical companies and steel refineries

The cooling water is drawn out of the Bay, cycled through a factory in a closed pipe system and discharged back into the Bay There is considerable dispute about whether these vast flows of warm—sometimes boiling—water are actually a form of pollution

Fisheries experts say some big flows of industrial cooling water are capable of upsetting the balance of nature in portions of the Bay, but the regional board doesn't classify cooling water discharges as pollution

---

SAN FRANCISCO SEWER SYSTEM MUNICIPAL ANTIQUE

(By Fred Garretson)

There are 91 cities in the Bay Area, but only the city of San Francisco operates an antique municipal sewer system which overflows and dumps raw sewage onto public beaches and the waterfront every time it rains

The other 90 cities—with varying degrees of success—have taxed themselves for expensive public works projects which are at least the first effective steps toward cleaning up the pollution in San Francisco Bay

But unless San Francisco does something about its raw sewage discharges, the rest of the Bay Area cities are going to be reluctant to invest more money in cleaning up water pollution

This is the opinion of Sidney S Lippow, of Martinez, the "public-at-large" representative on the Bay Area Regional Water Quality Control Board

"All over the Bay Area people are saying, 'Why should we spend more and more money building bigger and more advanced sewage treatment facilities if you're going to let San Francisco get away with doing nothing'," Lippow said.

Grant Burton, of Alamo, long-time chairman who retired from the regional board last week, said, "San Francisco city officials spent 18 years trying to avoid doing anything about the problem "

Burton advocates "turning the problem over to the State Attorney General" for prosecutions The law provides for possible jail sentences for officials and fines of up to $50,000 per day for the city—as long as the city violates pollution control laws.

Fred Dierker, executive officer of the regional board, explained that most cities have two sets of pipes buried in their streets. One pipe system handles sewage and the other pipe carries away rain water from the streets

But San Francisco uses a "single pipe" system which receives all the liquid waste from toilets, street gutters, roof storm drains, garbage disposal machines, industrial acids, hospital refuse and even the sweepings from the elephant cage at the zoo.

During dry weather, almost all of San Francisco's liquid waste ends up in one of the city's three sewage treatment plants and is given low-grade "primary treatment" to remove floating grease and solids before its discharge into the Bay or ocean.

But in wet weather, the rush of rain water from the streets pours into the sanitary sewers and overwhelms the system. Sewage cascades through the treatment plants without time for adequate treatment

Sewage backs us in the main pipes and—because of the San Francisco system's design—starts overflowing through 38 "sewer diversion structure outfalls" located on beaches, marinas and under the San Francisco docks

Even in dry weather the San Francisco system is primitive by the standards of other Bay Area cities

The North Point and Mile Rock Beach discharges are given only "primary" treatment, chlorinated and discharged at the water's edge The Islais Creek treatment plant discharge isn't chlorinated and is discharged to fester in a dead-end lagoon.

By contrast, most Bay Area cities have built—or are actively planning—expensive "secondary" treatment facilities which cycle sewage through a series of processes which, some engineering consultants claim, turns sewage into "swimming pool quality water "

Some communities, such as Valley Community Services District near Livermore, use even more advanced "tertiary treatment," which turns sewage into an effluent which almost equals the U S Public Health Service standards for drinking water.

East Bay Municipal Utility District Special District No 1, covering Oakland, Berkeley,

Emeryville, Albany, Piedmont and Alameda (and soon to add El Cerrito and Kensington) uses what Dierker calls "advanced primary" treatment.

However, instead of discharging at the water's edge as is done in San Francisco, EBMUD's treated sewage passes through a long pipe and disperses in a deep channel in the middle of the Bay where there are strong tidal currents.

In addition, EBMUD is designing secondary treatment facilities and is considering a further program to treat storm water discharges which pick up pollution from city streets.

Some South Bay cities are planning to bond themselves for expensive equipment that would carry their already treated sewage through pipes 20 miles long to discharge it into better tidal currents.

Water pollution control is expensive.

Dierker said most cities and sewer districts charge the equivalent of more than 50 cents per $100 assessed valuation for sewage treatment facilities. Until recently Oro Loma Sanitary District residents in Ashland paid 97 cents, and in some parts of the Bay Area the cost is higher, Dierker said.

Dierker and Daniel Murphy, an engineer for the regional board, both stressed that a properly designed sewer system has an emergency overflow that would discharge raw sewage into a river or the Bay in case of a major disaster such as an earthquake or a big flood.

The difference between San Francisco and every other city in the Bay Area is that fundamental design in San Francisco causes its system to overflow raw sewage in every rain storm.

No one knows how much of San Francisco's sewage goes into the Bay raw, but according to Murphy, during what engineers call a "five-year storm," 99 25 per cent of the water flowing in San Francisco's sewers does not even go into a treatment plant

What little sewage does reach the treatment plant simply cascades through the pipes without a chance to settle

In such a storm (equal to half an inch of rainfall in any one hour period) the sewers are discharging at the rate of 20,000 cubic feet a second where the maximum hydraulic flow which could receive even minimal treatment is only 150 cubic feet per second, Murphy said

All storm drains carry some pollution from streets and roofs, but the San Francisco problem is made worse because the rush of water from the streets loosens the accumulation of grease and slime inside the sanitary sewer pipes.

"That first few hours of flow out of the San Francisco diversion outfalls is extremely bad stuff," Murphy said.

Burton, a member of the regional pollution control board from its formation in 1950 until last week, said the agency prefers to work closely with local people rather than clubbing them with legal action to upgrade sewage treatment facilities

"But," Burton recalls, "we spent more than 18 years trying to get the San Francisco City Administration to discuss the problem, but they kept dodging us."

"On one occasion we arranged a meeting with the San Francisco supervisors in their own board of supervisors chambers, but none of them showed up for the meeting.

"Another time some supervisors came to a meeting, but they started denouncing their own city engineering staff when they started to talk about the problem. Maybe they thought their own city employees were members of the regional board staff, or maybe they just didn't want to hear about it," Burton said.

However, Burton praises Joseph Alioto as "the first San Francisco mayor in the past 18 years who has been willing to at least talk about the problem."

But, Burton stressed, "There's a difference between talking about a problem and doing something about it."

Jerome Gilbert of Novato, present chairman of the regional board, said. "There's a well-founded lack of confidence in San Francisco's willingness to actually solve the problem "

He said pressure from the Federal Water Pollution Control Administration finally produced a resolution by San Francisco supervisors last October which officially admitted, for the first time, that the city has a sewer problem and proposing a time table for partially solving it

He said federal authorities refused to approve a minor federal grant to the city until supervisors filed a time schedule for providing secondary treatment of all sewage.

There was the implied threat that the government would start rejecting other kinds of federal grants for the city.

The San Francisco resolution promised to provide secondary treatment at two of three city treatment plants by 1975 and said the city would start treating four of its 38 wet-weather raw sewage discharges.

Regional Board member Sidney Lippow said the San Francisco resolution was "full of a lot of weasel words" which, even if carried out completely, would solve only part of the problem.

San Francisco supervisor Robert Mendelson, who presented the resolution to the regional board, said that because of other urban problems San Francisco won't budget much money for sewage treatment and said the Federal Government would have to pay most of the cost

Under questioning by the regional board,

Mendelson said the "secondary treatment"

[p. 9046]

standards all other Bay Area cities are being asked—or compelled—to obey, are too expensive to apply in San Francisco.

"But I'm sure San Francisco can probably get an adjustment in the federal standards for this city," Mendelson said

This observation stunned officials of other Bay Area cities, who have spent more than $300 million since 1950 on sewage treatment facilities and are planning to spend much more to meet federal and state standards

Mendelson said San Francisco officials declined even to consider financing the improvements through sewer service and sewer connection charges which have financed the ambitious pollution control programs in Oakland and San Jose

The regional board's suspicions about San Francisco worsened in December when city officials failed to show up—until after adjournment—at a regional board meeting called to consider detailed implementation of San Francisco's plans.

At that meeting William Bishop, a federal pollution control official, testified that a $921,000 federal grant had been given to San Francisco in June to finance a demonstration design project to suggest various ways to eliminate the wet-weather raw sewage discharge from the Baker street sewer at the St. Francis Yacht Club.

But, board chairman Gilbert discovered, six months after the money was given to San Francisco, the city hadn't even let a design contract.

"If you're having that kind of trouble on something as simple as this, what's going to happen in the next few years when you're scheduled to have real work under way?" Gilbert asked San Francisco officials

San Francisco will have real problems complying with their promise to provide secondary treatment of the massive flows of sewage in wet weather.

Secondary treatment requires holding sewer water for hours at a time when flow of the San Francisco sewers is big enough to fill a good sized reservoir in a short time.

Murphy said it will require imaginative thinking, such as possible carving out huge tunnels or caverns in the San Francisco hills to hold storm flows until they can be treated Conceivably such a system could generate hydroelectric power as sewage flows down to treatment plants, he said

San Francisco officials reject the idea of doing what Oakland is doing in older parts of the city—digging up the old single-pipe system and installing separate pipes for sanitary sewage and storm drainage.

(Oakland spends $1 million a year from special tax funds specifically earmarked for this purpose)

Murphy said installing two pipes would require digging up every single street in San Francisco and also reinstalling the plumbing in every building in the city because toilets and roof drains are now connected to the same pipe system

Oakland and Berkeley used rapid transit construction as an opportunity to replace many older portions of their sewer systems, but San Francisco is reconstructing Market Street with the same old antique single-pipe sewers.

Murphy said it would be useless to put separate sanitary and storm pipes under Market Street if all the tributary sewers from surrounding streets still used the old system.

But, Murphy said, complete replacement isn't impossible

He noted that the U S. Defense Department rebuilt and separated storm and sanitary pipes at the Presidio and at San Francisco Naval Shipyard, both handle as much sewage as a small city

However, the Army and Navy sewer clean-up programs didn't have much effect The brand new systems were reconnected to San Francisco's obsolete single-pipe sewers.

And when it rains, Army and Navy toilet flushings still pour out onto the public beaches, along with the sewage of 740,000 San Franciscans

SEWAGE CONTROL VESTED IN BOARDS

(By Fred Garretson)

Control of water pollution is fundamentally a state responsibility which in the San Francisco Bay Area has been delegated to an autonomous, and powerful, local board known as the Bay Area Regional Water Quality Control Board.

There are nine such boards in California whose boundaries of authority are set up on watershed lines which have only a passing relationship to city or county boundaries.

The Bay Area regional board has authority to specify standards for all waste water discharges into streams, rivers or ground water flowing into San Francisco Bay as far eastward as a point about one mile west of Antioch Bridge.

The control of waste flows in the Sacramento and San Joaquin Valleys, and the Delta—which has a major effect on the quality of Bay water—is controlled by a Central Valley regional board encompassing 40 per cent of the land area in the state.

The Bay Area boards authority also extends 50 miles out into the Pacific Ocean and along part of the San Mateo and Marin County ocean coastlines.

The Bay Area board's authority covers at least parts of all nine Bay Area counties, although most of Sonoma County lies in the jurisdiction of the North Coast regional

board, which had headquarters in Santa Rosa

The seven members of the regional board are appointed by the governor for four-year terms By law, six members represent special interest groups and one represents the public at large

Jerome Gilbert of Novato, manager of the North Marin Water District, the chairman of the board, last week was appointed executive officer of the State Water Resources Control Board, which sets broad policies for the nine regional boards in the state.

His appointment leaves a vacancy on the regional board for a representative of a water supply agency in the nine county area.

Other members are·

Vice-chairman, Ercole Caroselli of San Francisco, a Pacific Gas & Electric Co, executive representing industrial waste dischargers

James F McCormick, of Moraga, manager of a Berkeley printing firm, representing conservation groups, William C. Weber, of San Mateo, a businessman and city councilman representing city governments

Edward Teresi, a San Jose land developer, chairman of the Santa Clara County Planning Commission, representing county governments; Cecil E Herrick, Napa Valley farmer, representing agriculture interests who depend upon irrigation

Sidney S Lippow, of Martinez, a businessman with diversified holdings, is the public-at-large representative.

Teresi and Weber were appointed to the board last year by Gov. Ronald Reagan

Herrick was appointed last week to succeed Grant Burton of Walnut Creek, long-time chairman of the regional board who had served on the regional board since it was created in 1950 following passage of the Dickey Act, which set up the state pollution control program in 1949

The regional board office is at 364 14th St, Oakland.

Since 1950 it has compelled or convinced cities and sewer districts to spend more than $300 million of sewage treatment facilities, plus other millions for private industrial waste treatment, according to Fred Dierker, the board's executive officer

The board's top engineers are Roger James, policy formation; Dr Teng Wu, surveillance, and Bill Gingrich, administration.

Regulatory engineers for special county areas are H C (Chuck) Knapp, Contra Costa, Solano and Napa; Dan Murphy, Marin, Sonoma and San Francisco; Robert Scholar, San Mateo, Santa Clara and Alameda.

The board's powers are purely regulatory, with the actual operation of sewage treatment facilities in the hands of local governments or industries.

Dierker stressed that the board can't compel a local government or industry to use a specific type of treatment process.

The board sets engineering standards either for the actual sewage discharge or for certain specified levels of water purity in the "receiving waters" (usually a specific section of the Bay or a river near the discharge site)

Unlike most government agencies, the regional board has the power to change the rules at any time for any discharger.

Agencies who violate the board's orders are served with cease and desist orders In severe cases the problem is certified to the county district attorney (or the state attorney general if the county official refuses to act) for possible prosecution

City or industry officials can then be found in contempt of a court order, if pollution continues, and jailed Fines of up to $50,000 per day—or even larger—against the offending agencies are possible

The regional board operates under guidelines set down by the five member California State Water Resources Control Board The chairman is Kerry Mulligan, former mayor of St Helena.

The Federal Water Pollution Control Administration, an Interior Department agency, whose southwest regional headquarters are in San Francisco, with Bay Area offices in Alameda, has a broad influence over pollution control programs

FWPCA has the power to give or withhold federal grants, which often amount to more than 50 per cent of a multi-million dollar local project, in effect, a life-and-death control over these local government projects

Another major agency is the Bay-Delta Project, a special state agency drawing up a master plan for waste disposal in the Bay Area plus portions of three more counties east of the Sacramento-San Joaquin Delta. Much of the Bay-Delta Project planning has been done under contract by Kaiser Engineers of Oakland.

Gilbert said the regional board is seeking to persuade cities and sewer districts to consolidate their operations into larger, more efficient sewage treatment plants

The model for such consolidation is East Bay Municipal Utility District No 1, which treats all sewage from the cities of Oakland, Berkeley, Emeryville, Piedmont, Albany and Alameda and will soon annex the Stege Sanitary District in El Cirrito and Kensington

INDUSTRY LENDS A HAND IN BAY POLLUTION BATTLE

(By Fred Garretson)

Industry has been one of the major polluters of San Francisco Bay.

For decades it befouled the water with unchecked streams of butchered hogs' blood, fruit packing sugar, sulphuric acid, copper smelting poisons and the multitudinous deadly wastes of oil refineries.

But times have changed

A number of major industries—but by no means all of them—are now taking significant, and expensive, steps to clean up the Bay and to keep it clean

The most recent figures compiled by the Bay Area Regional Water Quality Control Board show 44 industries discharging 269 million gallons if industrial waste per day directly into the Bay through industry-owned sewer pipes

[p. 9047]

In addition, industry provides a big proportion of the flow of 398 million gallons of waste per day discharged into the Bay by municipal and sanitary district treatment plants.

This witch's brew of industrial waste poured into the cauldron of the Bay, combined with the sewage of 4 5 million people in the Bay Area metropolis, could without control turn the Bay into an algae-covered dead sea, according to regional board officials

Control of pollution requires setting and enforcing specific engineering standards Some industries have a big financial stake in how high the standards are set and the cost to industry of complying

To understand industry's role in the Bay pollution problem, it's necessary to look at some specific examples

One of the major policy decisions now facing the regional board—is a proposal to establish "thermal pollution" standards

The board's reports say that 94 per cent of the industrial waste discharged directly into the Bay consists of "cooling water" that has been pumped out of the Bay, cycled through factories to cool off hot machinery, and then discharged back into the bay several degrees warmer—and sometimes boiling hot.

The most outspoken opponent of thermal pollution standards is Pacific Gas & Electric Co which uses a huge flow of cooling water at its power plants at Pittsburg, Antioch and San Francisco, and is planning to build more such plants in the Bay, including an atomic power plant at Collinsville

These flows of warmed-up water affect wildlife PG & E argues that warming up the Bay stimulates marine life and improves fishing Some naturalists say it's bad for wildlife

The board is also considering stiff new regulations reducing the already minute traces of radioactivity allowed to be discharged into the Bay.

State officials say the radioactivity rules are necessary to protect delicate forms of marine life whose natural processes help clean up other forms of Bay pollution. PG&E objects that the new rules will hurt atomic power plant projects and perhaps make electricity more expensive in the future.

The regional board, consisting of seven laymen appointed by the governor, including a PG&E executive as the official representative of pollution-causing industries, will wade through a mass of conflicting expert testimony, and then set engineering standards for the nine Bay Area counties

Under terms of the Dickey Act, which created the regional board in 1950, these seven men have enormous power to set very high pollution standards for one city or industry, set low standards (or no standards) for a neighboring community . and to change the regulations at any time

The differing treatment given to two companies—Humble Oil and Refining Co , and Johns-Manville Products Corp —illustrates the problem.

Humble Oil has been criticized at times in national conservation circles

Three ago conservationists gathered almost a million proxy votes and marched into the stockholders meeting of Standard Oil Company of New Jersey (Humble's parent corporation) to demand—successfully—that a proposed Humble refinery not be built on a Monterey County beach.

Yet, Fred Dierker, executive officer of the regional pollution control board, says, "Humble is doing a good job on control of Bay pollution "

Coming from a tight-lipped engineer like Dierker, that's high praise.

When Humble set out to build its new $100 million refinery at Benicia (the one that got thrown out of Monterey), the company accepted—with a minimum of battling over specific details—the stiffest water pollution control standards ever established for a Bay Area industry

In addition, company officials say, the new plant in Solano County will comply with regulations of the Bay Area Regional Water Quality Control District even though Solano County isn't a member of the district and the county board of supervisors is fighting to keep state and federal air pollution regulations out of the county

Dierker said he'd like to see more companies with Humble's cooperative attitude move into the Bay Area.

In contrast, Dierker cites the problem of pollution at the Johns-Manville Products Corp plant at Pittsburg

Johns-Manville has an outstanding national reputation as a manufacturer of pollution control equipment and a company where top management figures are active in wildlife conservation

For this reason it was one of a handful of Bay area industries which, under a regional board policy, was permitted to operate under "self regulation" rules for 18 years with the understanding that the company would voluntarily clean up its pollution by redesigning

production facilities

Dierker said some industries spent millions of dollars cleaning up pollution under this voluntary policy.

But in May, 1968, the board's inspectors visited Johns-Manville for the first time and found 1 04 million gallons per day of untreated waste pouring into the deadend lagoon of New York Slough on the south side of Suisun Bay.

This is a spot where tidal fluctuations during winter and spring can easily carry significant amounts of this pollution into the drinking water intake pumps of both the city of Antioch and the Contra Costa County Water District.

The board report said the Johns-Manville discharge consisted of the toilet flushings of 300 workers "mixed with industrial waste from the manufacturing of tar paper, asphaltic and asbestos roofing and asbestos-cement building products."

Company officials did not appear at a public hearing to discuss the problem. The regional board then ordered stiff regulations for the company's plant and asked the staff to draft some more.

Johns-Manville national officials were stunned by the resulting publicity and promptly flew top management officials to California to issue a public apology

The company is still discharging raw waste into the Bay, but the plant will be hooked up to the Pittsburg city sewer system by May. This has required redesigning Pittsburg's sewage facilities.

The regional board's policies toward industry differ with each plant Situations which would be considered intolerable in the stagnant waters of South San Francisco Bay might be acceptable in North Bay areas which have a strong natural tidal "flushing action."

Tidal flushing in the south Bay (generally south of Bay Farm Island and Hunters Point) is so poor that Army Engineers tests show that only one-millionth of the sewage discharged at Redwood City gets flushed out of the Golden Gate by tidal action in a measurable length of time

The Army tests on the Bay model at Sausalito shows pollution dumped into the South Bay simply flows up into all of the tidal sloughs and sits there

San Jose's ultra-modern new $32 million treatment plant, which serves 750,000 people, has improved the South Bay situation since 1964, but even the San Jose plant can't meet the desired South Bay water quality standards

San Jose, and other South Bay cities, are now considering constructing a 35-mile-long sewer pipe up the Bay from Alviso to the vicinity of Treasure Island so that San Jose's already highly treated sewage can discharge where tidal currents will carry it to the ocean.

The situation in the North Bay is different Dierker said the city of Vallejo uses only low-grade "primary" sewage treatment, but its discharge into the fast moving currents of Carquinez Strait is adequate to disperse the waste.

The last of the "self-regulating" industries brought under regional board control was the California and Hawaiian Sugar Co at Crockett, which sends its sewage to a municipal treatment plant but also discharges 45.2 million gallons of industrial waste per day into Carquinez Strait from 21 outfalls.

The board's policy statement about C&H, drafted by Dick Russell and H. C. Knapp, of the board's staff, said 96 per cent of the discharge is cooling water.

The report said the remaining flow consists of sodium carbonate cleaning chemicals, burned sugar, raw sugar and the washings of sugar-processing machinery, battery acid, sulfamic acid, hydrochloric acid, hydrofluoric acid, etc.

This would be a bad combination in most areas of the Bay—particularly the sugar discharge, which burns up oxygen in the water, kills fish and can turn salt water black.

Sugar in cannery waste at San Jose is the major source of water pollution in the South Bay.

But, Russell explained, "The flow of water at Carquinez Strait is tremendous and the C&H discharge isn't really a problem" In engineering terms, he said, "pollution is a function of volume" and at the C&H plant the volume of good water is tremendous.

There is widespread evidence that industry is willing to spend considerable amounts of money to clean up pollution, but in most cases the actual figures aren't available as a matter of public record.

Ronald James, mayor of San Jose, recently told a pollution control meeting "A few years ago the local managers of national corporations wouldn't give us the time of day when we talked about pollution.

"We have some bad stuff flowing into San Jose's sewers, including sugar and various cannery wastes, acids and chemicals from electronics manufacturing and other things that are difficult for a treatment plant to handle.

"But recently, the local plant managers have been told by national firms that they're supposed to cooperate In most cases we're getting good cooperation

San Jose enacted a sewer tax surcharge under which industries with difficult-to-treat sewage are charged at a higher rate. This has resulted in considerable experimentation in "pre-treatment" to clean up waste before it goes into the sewers

East Bay Municipal Util''y District is considering the same sort of surtax for hard-

to-treat sewage in Oakland, Emeryville, Alameda, Berkeley, Piedmont, Albany, El Cerrito and Kensington.

However, in San Francisco, where the worst kind of raw, untreated industrial pollution pours out from overflowing sewer lines every time it rains, the county board of supervisors is on record as opposed to any kind of sewer tax, sewer surtax or sewer connection fee.

When asked what the possibility of using such taxes to clean up the San Francisco mess, San Francisco Supervisor Robert Mendelsohn, chairman of the health committee, told the regional board, "We aren't even considering anything like that."

The Islais Creek Sewer Treatment Plants, which discharge the toilets of 161,000 persons, plus the south-of-Market industrial area, into a dead-end lagoon one block from the San Francisco Wholesale Produce Market, doesn't even chlorinate the sewage.

The regional board's report on San Francisco County found 660,000 gallons per day of untreated waste, mostly in the industrial

[p. 9048]

district, discharging into the Bay because pipes hadn't been hooked up to flow into the sewer treatment plants

Under board orders the city shut down a dozen individual company raw sewage discharges and agreed to tie the South Fourth Street industrial area sewer pipes into the municipal collection system.

At the San Francisco Port Authority docks the regional board investigators found 207,000 gallons of raw sewage per day flushing directly into the Bay from 405 toilets, 243 wash basins and 180 urinals

The city has launched a program of connecting San Francisco Port Authority toilets to the municipal sewer system although some officials consider this a futile effort because of the flows of raw sewage pouring out under the docks from the rest of the city sewer system.

The regional board report concluded: "The city and county of San Francisco has the ambivalent role of being the greatest waste discharger while requiring the greatest protection of Bay waters along her shore for beneficial uses."

There are some kinds of pollution which are extremely visible in the Bay but are considered harmless to wildlife and are therefore at the bottom of the board's priority list

Dierker said these include the reddish tint seen in the water near the Bay Bridge Toll Plaza, which he said is iron oxide from an Emeryville paint plant A white tinge can be seen near a South San Francisco milk of magnesia factory.

Dierker said a "very significant" effort is being made by a committee of industries to clean up pollution in the North Richmond area in the cove east of Point San Pablo.

During the past four years the dischargers spent $5,145,000 on new pollution control equipment and worked on a major long range plan to eliminate pollution to this cove

A report issued by the industrial committee listed spending in four years as: Allied Chemical Corp., $90,000; Chevron Chemical Co., $1,632,000, San Pablo Sanitary District, $236,000, and Standard Oil Co of California, $3,187,000

On Jan 15, the regional board adopted a policy, agreed to by the dischargers, under which dischargers promised to work toward the "maximum feasible degree" of treatment in North Richmond

Dierker said, "This means tertiary treatment (very pure) discharges The companies and the sewer district might elect to use a lower degree of treatment and discharge it far out into the Bay through a long pipe, but in that case they'd have to come back to the board to ask for a lowering of standards."

This program might turn North Richmond into one of the most beautiful spots along the shoreline of San Francisco Bay.

SAN FRANCISCO REALLY HAS A SEWER PLAN—BUT JUST WHAT IS IT?

(By Fred Garretson)

San Francisco city officials talk boldly, but not too confidently, about Mayor Joseph Alioto's master plan to clean up the San Francisco sewer mess

After 20 years of playing hide-and-seek with the Bay Area Regional Water Quality Control Board, San Francisco's supervisors caved in to strong pressure from the U S Interior Department and on Oct. 28 passed a resolution agreeing to obey state pollution control laws.

On Nov 13 Alioto signed the official "policy of intent to adhere to a schedule for compliance with waste discharge requirements" established by the pollution control board

At the same time Alioto let it be known that San Francisco wouldn't be able to meet the time schedule unless the state and federal governments put up most of the money to buy pollution control facilities which the other 90 cities in the Bay Area have taxed themselves to pay for.

Nonetheless, Alioto and other San Francisco officials have been able to say, "We are proceeding with a plan ."

But there is considerable confusion among San Francisco's top officials about just what that plan is

Mayor Alioto says it's a $300 million plan to build a great sewer discharge pipe stretching miles out into the ocean He tells reporters, "See Tom Mellon for the details."

Chief Administrative Officer Tom Mellon says it's a $600 to $800 million plan to build huge "sewage caverns" in the San Francisco

hills and to construct many small treatment plants along the shoreline He tells reporters to "See Myron Tatarian for details "

Public Works Director S Myron Tatarian says it's a $135 million plan to extend three city sewer treatment plant outfalls a few thousand feet out into the Bay and to "do something" about the great streams of human excrement which now cascade across the public beaches in the western part of the city after every little rainstorm.

Tatarian doesn't pass the buck to anyone, but he refers a lot of questions to City Engineer Robert C Levy, who said the city is considering a whole galaxy of plans including sewage caverns, mini-treatment plants, shoreline sewage holding ponds, and, if worst comes to worst, maybe a big pipe out into the ocean

San Francisco's fundamental problem is an antique design which combines sewage and storm water runoff in a single pipe system which, in dry weather, delivers sewage to three treatment plants, but which in wet weather overflows raw sewage through 41 bypass pipes along the city shoreline

Tatarian said the plan adopted by the Board of Supervisors is:

1 By 1975 the city's average daily dry weather flow of 99 million gallons of partly treated sewage will be discharged in deep water tidal channels instead of spilling out close to shore in brown waves under the docks near Fisherman's Wharf, in a deadend creek near the San Francisco Wholesale Produce Market and directly onto the sands of Mile Rock Beach near Lands End.

2 By 1981, if all goes well, 12 of the city's 41 wet weather sewer discharge pipes along the ocean beaches and near Aquatic Park and the Marina will be fixed so that human excrement will no longer be dumped onto the public beaches.

No provisions were made to fix up the other 29 sewer outfalls along the Bay shoreline south of Pier 45 (Fisherman's Wharf) This area includes not only the largest sewers, but the heaviest population densities in San Francisco

San Francisco is divided into three "sewer watershed" zones whose resident populations are· Richmond-Sunset, 170,000; Southeast (the industrial district), 161,000; North Point (including all of downtown) 409,000

By 1981, if the city can meet the official timetable, all of Richmond-Sunset's wet weather discharges, plus four of the 20 North Point Sewers (Baker, Pierce, Laguna and Hyde Streets) will be fixed No one knows for certain, but these four sewers apparently serve about 60,000 persons

This means that the toilet flushings of the entire Southeast Zone, plus 350,000 residents of the North Point Zone will continue to pour untreated into the Bay during wet weather

The current boom in skyscraper office and apartment houses will increase the number of toilets in this zone

A 1965 survey by the Northern California Transit Demonstration Project showed 890,299 daily trips in and out of San Francisco Central Business District between 10 a m. and 6 p m on weekdays

This figure can be subjected to wide interpretation because visitors contribute to the sewers through toilets, restaurant dishwashing and garbage disposal machines

City planning department officials said this particular study counted commuting workers only once, but downtown shoppers twice and also included some of the through traffic from the Bay Bridge that bypassed downtown San Francisco The figure doesn't include evening visitors to San Francisco.

But by conservative estimates the figure could be translated into 450,000 visitors depositing into the sewer system

This means that in the North Point and Southeast Sewer Zones the raw sewage of almost one million people will continue to get dumped into the Bay untreated every time it rains.

The timetable adopted by the Board of Supervisors and proclaimed as official policy by Mayor Alioto, makes no provision for these 29 sewers except to say that the problem will be considered "as the need arises," if and when water contact sports facilities are built along the waterfront.

Tatarian says this means that individual sewers will be diverted if the city decides to build a marina or swimming facility at a spot where a sewer now discharges.

And Tartarian stresses, the multi-million cost of fixing the sewers will be computed as part of the cost of the recreation development

This runs exactly opposite to the policies of the regional water pollution control agency, which aims to make all parts of the Bay safe for swimming.

Levy said reconstructing the entire San Francisco sewer system to modern standards by putting in separate sanitary and storm drainage pipes would cost $1 4 billion

He said it would require digging up every street in the city, and rebuilding the plumbing of every building to separate the sanitary pipes from the roof rain drains.

Half of the cost would be public money. The other half would be borne by private property owners, who would have to pay an estimated $2,000 per dwelling unit to make the conversion, Levy said.

"There wouldn't be any money available for other civic projects," he said.

Tatarian and Levy said various types of construction could solve a major part of the sewer overflow problem—mainly sewage re-

tention basins—and might bring San Francisco into conformity with water quality control board standards

They said extending dry weather outfalls into the Bay and making internal treatment plant improvements would cost $35 million.

Fixing the wet weather outfalls on ocean beaches and near the Marina District would cost $45 million Fixing the other 29 wet weather sewer outfalls would cost $55 million

However, Levy stressed, these are 1968 dollar figures which don't include bond interest costs, inflation or rising land and construction costs, which they said are increasing five percent per year

Levy said these cost figures are optimistic estimates based on tentative conclusions by consultants working on an experimental design for a miniature wet-weather treatment plant that might meet water pollution standards.

This pilot plant is proposed for the Baker Street Sewer outfall next to St Francis Yacht Club

The success or failure of this experiment will affect all future planning to clean up the San Francisco sewer problem

Mr. REID of New York. Mr. Chairman, I rise in strong support of H R. 4148, the Water Quality Improvement Act of 1969.

This measure contains several important safeguards to preserve the remaining purity of this Nation's water re-

[p. 9049]

sources and to insure that they will be free of the pollution that results from a number of major activities.

In particular, the bill provides strict controls on oil pollution and establishes the liability of the owner of the facility responsible for the oil leak for cleaning up the water and surrounding beaches I believe that the civil and criminal penalties in this section of the bill for failure to comply with these requirements are fair and necessary in light of the several recent tragic oil leaks.

There is another aspect of this legislation which I would like to emphasize briefly. That is section 11(b) which requires that any applicant for a Federal license for an activity that may discharge waste into the navigable waters of the United States present the issuing agency with certification from the affected States that the activity will be conducted in such a manner that it will not reduce the quality of the water below the State's accepted standards. This provision is specifically intended to require that the Atomic Energy Commission take thermal pollution into consideration when issuing licenses for nuclear generating facilities

This section was included in the bill over the objections of the chairman of the Joint Committee on Atomic Energy, who sought to weaken it in several particulars I applaud the firm stand of the Public Works Committee in insisting on these sensible precautions so that the thermal standards for water quality adopted by 34 of the Nation's water quality jurisdictions will not be meaningless in the eyes of the AEC.

In my judgment, we must give much more study to the deleterious effects of thermal pollution While many States have made progress in adopting thermal standards for water quality, there are indications that some of those standards are inadequate. I feel that we should effect a moratorium in the construction of nuclear powerplants until we can be sure not only that the plants present no radiological hazards, but also that they will not reduce the quality of surrounding waters or upset the ecological balance in the area. There has been some indication that the coolant towers associated with nuclear plants can be a source of enormous air pollution, and even cause weather modification in some instances While these aspects of power production are not of immediate concern in connection with this legislation, my colleagues may wish to bear them in mind for future discussions regarding air pollution, nuclear plants, and the quality of our environment To further befoul our air and water and retard their purification in the name of advancing technology would be folly.

It is my understanding that the gentleman from Ohio (Mr. VANIK) will propose an amendment to this bill, to

incorporate the features of H.R 9832, of which I am a cosponsor. Mr VANIK's amendment would provide an emergency fund to provide permanent corrective relief for those areas of the Nation which are in environmental crises. Included among those "pollution disaster" areas are the Lake Erie basin, the great rivers, and other offshore regions. The problems in these areas are international, interstate, and of such magnitude that their solution is beyond the capacity of any single State. I urge my colleagues to support Mr. VANIK's amendment, in order that these areas may receive the urgent attention which they need.

Finally, Mr. Chairman, while I commend the committee's comprehensive approach to the problem of water pollution, I feel that the appropriations authorized by this legislation are totally inadequate. It has been estimated that, to restore this Nation's waters to their natural state and keep them that way, we would need to spend $100 billion between now and the end of the century. This bill would authorize appropriations of only $348 million during the next 3 fiscal years. I hope that my colleagues will provide full funding for this legislation, will increase the funds for water pollution control in future years, and provide funds for sewage treatment in an additional bill. There is a critical need for legislation providing for the treatment of solid wastes.

Mr. WOLFF. Mr. Chairman, I am pleased to join in support of the Water Quality Improvement Act of 1969 which promises to be another major step forward in our effort to curb water pollution and protect our environment for future generations.

There is a special pleasure in supporting this bill because section 18 contains provisions I had previously introduced as separate legislation to control sewage from vessels. I am, of course, gratified to see my long-standing recommendation included as part of this omnibus legislation.

It is essential that this legislation receive our prompt affirmative action. Every day our waterways are being polluted by waste from vessels, industrial spillage, oil slicks, and other pollutants that collectively threaten to permanently destroy our environment. I have long felt this is an area, along with air pollution, deserving the highest priorities of the Federal Government. It is therefore reassuring that this legislation is among the first major bills to come before the House this year. I trust we will pass this bill without delay and declare ourselves firmly in favor of necessary controls on the menace of water pollution.

As has been noted in debate the major provisions of this legislation are designed as a greatly needed assault on the problem of pollution from offshore oil drilling and oil leaking from tankers. This problem has increased sharply in recent years and reached its unfortunate zenith in January and February when the beaches of southern California were turned into filthy, blackened sponges full of oil. A repetition of this tragedy, which killed fish and wildfowl besides ruining recreational and natural resources for human enjoyment, cannot be tolerated and I am hopeful this bill would begin to solves this problem.

I am also impressed by those provisions of the bill requiring assurances that industries and utilities discharging wastes into waterways provide necessary assurances that the waste will not violate existing guidelines on pollution. This is a constructive step in the effort to curb the still unmeasurable impact of thermal pollution.

As I noted at the outset I am pleased that the bill contains provisions I had sponsored previously to control the sewage from vessels. As pleasure boating and commercial use of the waterways are growing we must have the necessary protections to ward off still another threat to our rivers, harbors, and shoreline.

This is a good bill that takes a giant

step in the effort to stem the rising tide of pollution. With constructive legislation such as this there is reason to hope that the great waterways and shorelines of the United States will be conserved in a mannar befitting our heritage. I believe there is little we might do that is more important than conserving that heritage so I am pleased to be able to vote for the Water Quality Improvement Act of 1969.

Mr. LANGEN. Mr. Chairman, I concur with the basic provisions of the Water Quality Improvement Act of 1969, which is before us today. The Committee on Public Works is to be commended for directing early attention to the problems of water pollution, and it is hoped that these proposals receive favorable action.

I am most grateful to the committee for including the basic principles of my own lake pollution control bill, which I introduced in 1967. I urge that this section of the bill be kept intact.

We in Minnesota are particularly aware of the benefits derived from attractive and clean lakes, since we have so many of them.

The scenic surroundings and satisfying recreational and relaxing activities associated with lakes will be in ever greater demand as our population continues to grow. It is quite a sight to see the cars stream out of our cities at the end of the week, all carrying families to a favorite lakeshore spot that promises fresh, clean air and pure water for swimming, boating, fishing, and the many other activities connected with our lakes.

Unfortunately, the presence of man in ever-increasing numbers has aggravated a problem that threatens the future of these great resources. This is why many of us introduced legislation to amend the Federal Water Pollution Control Act to authorize a comprehensive planning program in lake pollution prevention and control. The comprehensive planning programs called for in the bill before us today will go a long way toward halting the steady erosion of our lakes.

The manmade pollution of our lakes is accelerating the normal aging process of such bodies of water. Lake Erie is a conspicuous example, but our smaller lakes, some in Minnesota, also are deteriorating at a rapid pace. Rank vegetation chokes much of the lake beginning in July, and restricts fishing, boating, swimming, and other recreational activities. Subsequently the mass of vegetation begin to rot, creating odor problems, and lowering the oxygen level so that fish frequently die.

These conditions might naturally develop through the regular aging process,

[p. 9050]

but it would take thousands of years. But man has accelerated this aging process through pollution. It comes from many sources, such as septic tanks of the shoreline cottages, sewage from cities and towns situated on the watershed, pollution from livestock on farms, and draining from fertilized farmlands Siltation from erosion within the drainage area further complicates the problem. Unfortunately, a lake has relatively little flushing action, and has much less capacity to dilute introduced wastes than does a flowing stream.

Greatly expanded Federal, State, and local research and demonstration programs are needed to develop practical and effective methods for improving the quality of lake waters. The problem must be attacked on two fronts simultaneously. First, we must find ways to remove or dissipate the existing nutrients. And then we must reduce the nutrients entering the lake.

The clean lakes section of the bill before us is a welcome step in the right direction. It authorizes the Secretary of the Interior to enter into contracts and grants with various individuals, agencies, and organizations, for research and development on the problems of lake eutrophication and other lake pollution problems. The Secretary would also be authorized to develop field laboratories,

research facilities, and demonstration projects We desperately need new and improved methods for the prevention, removal and control of natural or man-made pollution in our lakes This bill will provide the means of accomplishing these methods.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that the House will approve this bill before us, H.R. 4148, as another forward step in the legislative efforts we have exerted, and which I have supported, over the last several years to strengthen the Federal Government's effectiveness in trying to prevent catastrophic pollution of our waterways.

The provisions of this current measure are designed particularly to help the various States adequately deal with the most vexing problem of oil discharge and spillage by making shipowners liable for such discharge; establishing a revolving fund for reimbursing States faced with sudden and tremendously expensive cleanups of oil and other polluted material; initiating a demonstration program for effective water pollution control; encouraging students, through grants, to undergo training in water quality control; and authorizing funds for extending water pollution control research and development.

Mr. Chairman, the reasons for and the meaning of these and other provisions in the bill have been thoroughly and expansively explained to the membership, and there is no need of enlarging upon them at this time.

The objectives of the bill are unquestionably in the national interest and the appropriations projected are reasonably moderate in consideration of the vital importance of removing and preventing the very dangerous and damaging pollution of our national waters.

Therefore, I hope that this Water Quality Improvement Act of 1969 will be overwhelmingly adopted.

Mr. EILBERG. Mr. Chairman, I want to take this opportunity of recording my unqualified support of H.R. 4148, a bill which will help solve some of the major unmet pollution abatement needs of this country.

There is no question that water pollution is one of the most aggravating and serious problems of our time. For over 10 years now the Congress has been studying the facts and enacting progressive legislation to overcome the shortcomings of public and private action. Nevertheless, our citizens continue to express deep concern over the slow pace of cleanup efforts and achievements to purify the waters of our streams, lakes, and shoreline.

The Gallup poll, in 1968, issued the results of a study in which the people questioned were asked what they considered the most urgent of environmental problems. Thirty-two percent said water pollution. When asked what they considered the best solution, they responded that new ways must be found to stop industrial pollution, existing laws should be better enforced, and new legislation passed.

Enactment of H.R. 4148 will be a significant step in these directions.

The bill provides strong penalties for discharging oil into the navigable waters of the United States and also establishes a program in which the Federal Government can clean up the oil from a spill and require that the industry or person responsible for the spill reimburse the Government for costs of the clean up. In considering this provision, the House Committee on Public Works urged that State and local groups already formed for clean-up operations be called upon for cooperation and assistance. In addition, both national and regional contingency plans are to be developed to meet all future emergency spillages such as the *Ocean Eagle* incident off the coast of Puerto Rico.

Wastes from ships and boats with inadequate marine sanitation devices are a major cause of pollution. According to estimates of the Federal Water Pollution Control Administration, the combined waste being discharged from all

watercraft operating in American waters approximates the quantity of raw sewage that could be discharged by a major city such as Buffalo or Cincinnati. The bill authorizes the Secretary of the Interior, after consultation with other appropriate departments, to promulgate Federal standards of performance for marine sanitation devices The enforcement of these standards would prevent the future discharge of untreated and inadequately treated sewage into navigable waters.

Acid mine drainage is still another major source of pollution. It has been estimated by the Federal Water Pollution Control Administration that each year over 4 million tons of acid-equivalents are being discharged into streams from both active and abandoned mines. These acids can destroy fish and their habitat, thereby greatly reducing the recreational value of our Nation's streams. Experts have indicated that control methods are not yet known The bill therefore authorizes the Secretary of the Interior to enter into agreements with State or interstate agencies to carry out demonstration methods and projects for acid mine water control. There is urgent need for more skilled manpower both in research and the operation of treatment facilities. To alleviate this need, the bill authorizes an expansion of the existing training grants program established under the Water Quality Act.

Federal agencies which control property or issue licenses and permits for construction or development, have a major role to play in pollution control, since many of these facilities and operations affect water quality. For example, the dredging and disposition of spoil in navigable waters is controlled by the Corps of Engineers. The bill provides that each agency having jurisdiction over property or over the issuance of permits or licenses must insure that all operations resulting in pollution effects, must be carried out in a manner that will comply with established water quality standards. This provision simply means that the Federal Government, in all of its activities, will lead the way in preventing pollution.

There are a number of research studies that must be sustained in the years ahead if adequate solutions are to be found to outstanding and poorly understood pollution challenges. For example, although some advances have been made on the problem of lake aging or "eutrophication," much more knowledge is required Research is needed on the control of phosphorus and on the elimination of pollution from combined storm and sewer systems. The bill provides for these and other needs by authorizing appropriations for 2 additional years at the level already provided for fiscal year 1969.

Mr. Chairman, the control of water pollution must be a dynamic effort, responsive to both old and new problems stemming from constant technological change. I have supported the passage of earlier pollution legislation. I hope and I am confident that this House will enact into law this bill before us.

Mr. FASCELL. Mr. Chairman, I strongly support H.R. 4148, the Water Quality Improvement Act of 1969. Adoption of this much-needed protection is long overdue.

Basically, this legislation takes the approach of making those who handle oil and other potential water contaminants responsible for any damage caused by these materials. The existing law applies only to oil damage that is willful or grossly negligent, but the increasing complexity of our civilization has produced many sources of contamination that did not meet these criteria.

The breakup of the tanker *Torrey Canyon*, with its incalculable damage to the coast of England and its nearly $8 million cleanup costs, and the devastation of California's beaches this year by oil from an offshore drilling rig are but two examples of unintentional but tragic dam-

age to wildlife and our natural environment. Making those who handle oil and other possible pollutants responsible for the cost of any damage will provide a powerful incentive for them to take ever greater measures of protection.

One provision of the bill makes shipowners liable for oil discharge or spillage cleanup costs up to $10 million, or $100 million per gross ton. It provides criminal penalties against individuals operationally responsible for vessels who fail to promptly report a discharge of oil or other polluting matter to the Coast Guard or Secretary of Interior. It also provides civil penalties against vessel owners or operators in cases of willful or negligent discharge. The measure would authorize the Government to recover costs of clearing up discharge or spillage presenting an actual or threatened pollution hazard if those responsible are unable or unwilling to remove it.

But this legislation does not stop in these major areas of water pollution concern. It provides protecton against discharge of inadequately treated sewage from vessels, and authorizes a demonstration program on acid and other mine water pollution control. Research funds on water quality control are also provided, and it is hoped that these expenditures will enable us to do a far better job of preserving and protecting our water environment in the future.

Taking all of these things into account, the legislation is strongly in the national interest. From my own area's viewpoint, it could help prevent the golden sands of Miami Beach from being despoiled by oil from offshore vessels—a tragedy which has not happened so far only because of good fortune. Internationally, this bill would help cleanse the world's waters by encouraging foreign nations to follow our example

The increasing size and number of oil tankers, the growing exploration for offshore oil, and the presence of other pollutants make it necessary that we impose these new protections. Therefore, I strongly urge my colleagues to approve this bill.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will read the Committee substitute amendment printed in the bill as an original bill for purposes of amendment.

The Clerk read as follows:

H.R. 4148

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 "Water Quality Improvement Act of 1969"

Mr. WRIGHT. Mr. Chairman, I move that the Committe do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having assumed the chair, Mr. SMITH of Iowa, Chairman of the Committe of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill (H.R. 4148) and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

[p. 9052]

Mr. FALLON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4148, with Mr SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN When the Committee rose on yesterday the Clerk had read through section 1, ending on page 38, line 17, of the committee substitute amendment.

If there are no amendments to this section, the Clerk will read.

The Clerk read as follows:

* * * * *

[p. 9259]

Mr. FALLON (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the committee substitute amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDMENTS OFFERED BY MR EDMONDSON

Mr. EDMONDSON. Mr. Chairman, I offer several amendments, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma (Mr. EDMONDSON)?

Mr. HALL. Mr. Chairman, reserving the right to object, may we hear the amendments read first.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. EDMONDSON: On page 74, strike out line 3, and insert in lieu thereof the following "adversely affected State or interstate water pollution control agency as determined by the licensing or permitting agency"

On page 74, line 11, after the period insert the following "If an affected State or interstate water pollution control agency or the Secretary, as the case may be, fails to act to certify or refuse to certify within a reasonable period of time as determined by the licensing or permitting agency after notification of such application, the certification requirements of this subsection shall be waived with respect to such State, agency, or Secretary, as the case may be, with respect to such application"

On page 74, line 18, strike out "(1)".

On page 74, line 21, strike out the second comma and insert in lieu thereof a period

On page 74, strike out line 22 and all that follows down through and including the period on line 23

Mr. HALL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma (Mr. EDMONDSON)?

There was no objection.

Mr. EDMONDSON. Mr Chairman, yesterday's general debate on this bill developed some possible grounds for misunderstanding between the Committee on Public Works and the Joint Committee on Atomic Energy with regard to procedural matters arising from the technical language of section 11(b).

These amendments were worked out last night with a considerable amount of discussion, and I think very careful consideration by members of our committee sitting with the chairman of the Joint Committee on Atomic Energy and with staff people from both committees.

There as been discussion today by members on our side of the aisle with the ranking minority member and with staff of the minority to resolve these problems.

The words "affected State or interstate water pollution control agency," as used in the bill originally, left both the applican for a license or permit and probably the States in doubt as to what "affected" means.

The amendment makes it clear that it is the responsibility of the licensing or permitting agency of the Federal Government to determine, at least initially, which are the States involved, and it is from the States included in that determination that the applicant must obtain his certification.

The Federal agency must also set a

reasonable time within which the State must act, either to grant or to deny, the certification.

Now it does not have any particular pressure to compel certification but it is put in the position with this amendment to do away with dalliance or unreasonable delay and to require a "yes" or "no" and certification by States that are considered to be adversely affected.

The failure by the State to act in one way or the other within the prescribed time would constitute a waiver of the certification required as to that State.

With respect to the deletion of the mandatory requirement for a second certificate prior to issuance of an operating license the committee recognizes the possible undue and severe burden that might arise from potential time delays. The committee also believes that the language of the subsection, as it stands and without that second mandatory requirement, still adequately protects the State, in that any affected State which believes its best interest requires that it take a second look at the contemplated operation of the facility involved can exercise its right to do so simply by notifying the licensing agency that it objects to the use of the original certification in the granting of the operating license. That would then, without further requirement afford the State the opportunity to review the matter and provide recertification or not as it saw fit. It is, of course, inherent in all of this that full and complete information will be made available to all the States involved by both the applicant and the licensing or permitting agency.

I would like to make it clear that in giving the Federal licensing agency the initial responsibility for determining which are the affected States or the adversely affected States, as this term is used in the amendment, we in no way intend to lessen or transgress upon the right of any State to seek judicial relief if it feels its best interests warrant such a move. There is no intent in this amendment to cut off any judicial remedy or any judicial right that would be available to the States.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I am happy to yield to the gentleman from California. I want to thank him at this time for the long period of time after hours yesterday which he gave to consideration of this problem, and I recognize the very serious nature of it in terms of the development of our nuclear power potential in this country.

Mr. HOLIFIELD. Mr. Chairman, I, too, wish to support the amendment offered by the gentleman. I also want to thank the gentleman and the other members of the committee and the staff for spending several hours with us yesterday working over some of these troublesome details which I believe the amendments will cure in the main and that we will be able to proceed. It is my hope that in the development of the energy which is needed in this country that we all realize that every 9 years we have to double the electrical capacity of this country, and it is from that electrical energy that we will depend for the development of our industry, our homes, and our whole society.

Section 3 of H.R. 4143, as proposed to be amended by the Public Works Committee, would amend section 11 of the Federal Water Pollution Control Act to require, among other things, that any applicant for a Federal license or permit to conduct an activity which may result in discharges into the navigable waters of the United States to provide the licensing agency with a certification from each State which may be adversely affected by such discharge, or from the applicable interstate water pollution control agency, that there is reasonable assurance that the activity will be conducted in a manner that will not reduce the quality of the water below applicable water quality standards. In the event of a dispute over the question, the Federal licensing or permitting agency would determine which states might be "ad-

versely affected" by the discharge Further, if an affected State or interstate water pollution control agency or the Secretary, as the case may be, fails to act to certify or refuse to certify within a reasonable period of time as determined by the licensing or permitting agency after notification of such application, the certification requirements of the bill would be waived with respect to such State, agency, or Secretary, as the case may be, with respect to such application.

One result of this requirement will be that nuclear powerplants, which of course are federally licensed and which obviously must discharge waste heat into condenser cooling waters for return to adjoining waterways, will be reviewed by appropriate State water pollution control authorities prior to Atomic Energy Commission licensing to see that the heated liquid effluents discharged from the facility will not reduce the quality of adjoining waters below approved water quality standards.

I believe this preventive aspect of H R 4148 complements the existing thermal pollution control measures that have been taken under the Water Quality Act

[p. 9264]

of 1965, and should contribute significantly to avoiding situations wherein after-the-fact abatement actions have to be instituted to remedy existing pollution violations.

I believe the committee amendment to H.R. 4148 is a considerable improvement over the bill's present language in several respects First, it is now clear who shall determine, in the event of a question in this regard, which State or States are "affected " Also, there must be a potential for "adverse affect," as opposed to a mere "affect," which as I interpret the word could mean something as insignificant as 1 B.t u. Third, this amendment guards against a situation where the water pollution control authority in the State in which the activity is to be located, or possibly in some other State, simply sits on its hands and does nothing. Any such dalliance could kill a proposed project just as effectively as an outright determination on the merits not to issue the required certificate. Thus while this bill would still permit one State to make a decision that would have extraterritorial effect upon another, at least now it cannot do so passively—it has to take affirmative action to consider the matter and to decide to withhold the certificate if it wants to defeat a proposed project.

I therefore thoroughly support the amendment, and urge my colleagues with all the powers of persuasion I can marshal to vote its enactment.

The committee has also proposed an amendment to H R. 4148 that would help to alleviate a problem under the bill caused by the fact that, under the Atomic Energy Act, nuclear powerplants are licensed in two stages: First, a construction permit must be obtained from the AEC to build the facility, and then an operating license must be obtained to operate the finished facility. As originally reported the proposed amendment to section 11 of the Federal Water Pollution Control Act would have required an applicant for an AEC license to submit the requisite certification at both stages in the licensing process. It seemed to me that satisfaction of section 11's requirements at the construction permit stage should suffice unless subsequent thereto the license applicant proposed a material change which would affect the environment adversely.

The committee amendment to H.R. 4148 proposed today would eliminate the requirement for dual certification, but does so in a way that fully protects the affected State or States. Under the amendment as I understand it, the certification obtained at the construction permit stage would also suffice at the operating license stage unless, after notice given by the Federal agency concerned, an affected State, or the Secretary if his certification is involved, makes written objection to the agency. In that event the certification given earlier at the

construction permit stage would require reconsideration.

This amendment is not everything I would like it to be, since there are not any real safeguards in the bill to protect an applicant against arbitrary action by a State agency after the applicant has invested vast sums in his facility, but at least the large potential for delay built into the reported bill's dual-certification requirement has been somewhat mitigated. I trust, moreover, that, quite apart from the bill, the normal appeals procedures to the courts will protect a license applicant who, in a rare case, might be prevented from obtaining his operating license by actions of the State which are arbitrary or capricious, and based other than on the technical facts involved. I, therefore, support the amendment.

Mr. Chairman, I have a number of comments related to the bill itself, but not to any particular amendments now under consideration. They relate primarily to section 3 of the bill, and I would like to include them in the RECORD.

Section 3 primarily concerns thermal, or heat, pollution of our waterways, a matter of considerable interest to me I sponsored legislation in the last session addressed to the thermal pollution problem, at least as it relates to nuclear power plants, and planned to re-introduce the measure in this session. However, as I pointed out in a floor statement on March 11, I refrained from doing so in deference to more comprehensive legislation like H.R. 4148, which would be applicable to all Federal departments and agencies and, in substantial part, to all forms of steam powerplants—fossil fired as well as nuclear.

One result of this bill's new requirements will be that nuclear powerplants, which of course are federally licensed and which obviously must discharge waste heat into condenser cooling waters for return to adjoining waterways, will be reviewed by appropriate State water pollution control authorities prior to Atomic Energy Commission licensing to see that the heated liquid effluents discharged from that facility will not reduce the quality of adjoining waters below approved water quality standards.

Because of my interest in the thermal pollution aspects of this legislation, I suggested several technical amendments for the Public Works Committee's consideration during its consideration of this matter. I am gratified that a number of these recommendations were accepted by the committee, and that explanatory comments in the committee report have further served to clarify the intent of H.R. 4148

For example, proposed new section 11(b) of the Federal Water Pollution Control Act has been amended by the committee to require only that the certifying State agency find that there is reasonable assurance of compliance with applicable water quality standards. The earlier version would have required a virtual guarantee by the State agency concerned that under no conceivable circumstances could the facility's discharges violate any of the applicable water quality standards. The requirement imposed by H.R. 4148 would appear to be considerably more workable and in keeping with the tests laid down in other legislative grants of regulatory authority.

Also, under the earlier version of this bill any affected license or permit would have been automatically suspended if a court of competent jurisdiction found that such licensee or permittee was not in compliance with applicable water quality standards. In view of the possible adverse effect upon the reliability of a region's electric power supply which the forced shutdown of a large electrical generating facility could have, it seemed to me considerably more advisable to accord the court discretionary power to permit continuation of the activity pending necessary modification of the facility or its appurtenances, if that is feasible, or of the operating practices followed there. This recommendation also has been accepted.

Another of the concerns which I

brought to the committee's attention related to an apparent potential conflict under proposed new section 11(b) with the responsibility of the Atomic Energy Commission to regulate the radiological effects of source, byproduct, and special nuclear materials, as these terms are defined in the Atomic Energy Act. I was gratified to note the statement in the committee's report to the effect that nothing in section 11(b) should be construed to conflict with the AEC's preemptive authority under the Atomic Energy Act Additional clarifying language of a somewhat similar nature appears elsewhere in the report and in subsections (a)(2) and (j) of proposed new section 17 of the Federal Water Pollution Control Act.

The committee's solution to another question gives me some cause for concern. Because it would often appear impractical to require significant changes in the design of a nuclear facility after substantial progress had been made in its construction, and because the imposition of any such requirement could seriously delay operation of a facility whose on-line availability was planned years in advance and probably heavily counted on by the affected systems, I recommended to the committee that it exempt from section 11's coverage those nuclear facilities for which construction permits had been issued at the time of the bill's enactment. The committee bill has afforded some, but not complete, relief in such cases

As I understand the committee bill, if a construction permit has been issued for a facility and construction of that facility is actually underway at the time of enactment of H R. 4148, the certification called for by the bill would be postponed for 2 years from date of enactment as to such facility if during that period the permittee applies for his operating license. If at the end of this 2-year grace period the requisite certification has not been obtained the operating license previously issued without certification would automatically terminate. Thus, as I understand it, anyone applying for an AEC operating license after enactment of the Water Quality Improvement Act of 1969 who had received his construction permit and actually commenced construction prior to enactment could receive such operating authorization without the certification required by the act, but his operating license would be subject to automatic termination 2 years from the date of the act if within that time he does not provide the required certification.

[p. 9265]

To my way of thinking this requirement has a certain retroactive tone to it that normally is repugnant to Congress. However, the requirement is one that affected license applicants probably can accommodate themselves to without undue hardship, and hopefully without unnecessary delays in their operations, if the law is implemented with reason and fairness by the State water pollution control authorities and, where he is involved, the Secretary of the Interior. Therefore, rather than offering an amendment to modify the bill in this respect I shall simply express the deep hope and expectation that the States, or the Secretary of the Interior if he is involved, will implement this part of the legislation sensibly. If they do not, I rather suspect that they may find themselves carrying on their work by the light of a flickering candle.

I shudder to think of the adverse effect upon the reliability of a region's electric power supply which would be had if one or more operating nuclear powerplants in the area were forced to shut down because it was unable to obtain the required certification. Most of the newer nuclear plants are in the 800 to 1,000 electrical megawatt range; each, therefore, will be providing a significant share of the affected system's total power output. In view of this, I think it hardly necessary to elaborate further on the consequences of the forced shutdown of one of these plants after it has been fully

constructed and is in operation. Nor need I elaborate, I suppose, on the economic impact of such action on the Nation's utilities and their rate-payers, who after all are the people who actually pay the tremendous sums—in the vicinity of $150 million—represented by each of these large nuclear facilities.

As you can see, Mr. Chairman, I have followed the progress of this bill and substantially similar legislation in the other body quite closely. I believe, that for the most part, the Committee on Public Works has recommended a very fine piece of legislation. I want to commend the committee for the outstanding job that it and its staff have done, and urge my colleagues to vote for the amended bill's passage.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. EDMONDSON was allow to proceed for 1 additional minute.)

Mr. EDMONDSON. I yield further to the gentleman.

Mr. HOLIFIELD. Any unnecessary or bureaucratic obstruction that we place in the development of electrical energy and the development of the capacity to produce energy will be working, in my opinion, against the general welfare of our society. I thank the gentleman.

Mr. EDMONSON. I agree wholeheartedly with the gentleman. I do not know of any Member of this House who has done more through the years to try to develop the full potential of our country in terms of electrical power and energy. I think he has been a stouthearted champion of measures to develop our hydroelectric power, our steampower through fossil fuels, and in the atomic energy field, and, of course, he is without peer in his efforts in this direction. This committee respects the merits of his argument on the subject and is offering these amendments in an effort to meet those objections to the best of our ability.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from Ohio.

Mr. HARSHA. The amendment offered by the gentleman would strike the language appearing on page 74, line 22, which would do away with the need of second certification at the time an operating license is required; is that correct?

Mr. EDMONDSON. It would relieve the mandatory requirements in the bill. It would eliminate the mandatory requirement for a second operating certificate.

Mr. HARSHA. Does this apply only to nuclear generating institutions?

Mr. EDMONDSON. I think the language of the bill applies to all facilities. I do not think it is intended to be restricted to any particular facility, but it is a particularly sensitive thing for the nuclear facilities.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. EDMONDSON was allowed to proceed for 1 additional minute.)

Mr. EDMONDSON. From the time of the initial construction permit, in the case of a nuclear facility, there may be 7 years in construction. They may invest $100 to $150 million in the facility, and the requirement that we have, a mandatory requirement to come back for an operating permit, even when a State was not seeking it, and even when a State was not insisting upon it, seems to us to be an unreasonable requirement in the law.

Mr. HARSHA. Mr. Chairman, is it or is it not a fact that when we first have a certification for a construction permit, that deals with water quality at that time, and subsequent construction of the institution or enterprise and placing it into operation does not change the water quality standards or the effect upon the water quality standards?

Mr. EDMONDSON. It is my impression the obligations assumed in these permits not to affect the water quality standards adversely would be continuing obligations, and then as there is upgrad-

ing of water quality standards, there would be a continuing obligation on the facility to comply with the water standards to the limit of its ability.

Mr. HARSHA. Mr. Chairman, I think the gentleman does not understand my question. My question is, When they obtain this first construction permit and certification, at that time, that subsequent construction of the institution and placing it in operation does not change what effect the operation of that institution will have on water quality standards from what was certified to at the initial application.

Mr EDMONDSON. I think certification would be given only as to the standards that were known, and they would have to be standards that were established at that time. But I still have the opinion that there would be carried some obligation in the operation to try to upgrade the pollution prevention to the limit of the institution's ability.

Mr. CRAMER. Mr Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take the 5 minutes, but I do want to rise and ask the gentleman a question. I rise in support of the objective which the gentleman wishes to preserve. The gentleman has advised us of the nature of the amendments and the specific verbiage. I am in support of what the gentleman intends to accomplish

There have been many discussions about dual certification and I want to make sure what the gentleman is doing will accomplish the objective—as I am sure he does—of making certain that these certifications result in the operation of the facility in conformance to the water quality standards. I ask the gentleman· Is that not the basic objective which we all seek?

Mr. EDMONDSON. Certainly there is no particular value in just getting reasonable assurance they are going to do something. Our real objective is to get an operating facility that does not adversely affect water standards.

In this regard all we are seeking to do with these requirements about certification is to get attention early in the construction process to the problem of not affecting water standards adversely. The facility should be designed and engineered from the first to take care of that problem as the facility is constructed.

Mr. CRAMER. So the construction, as it relates to new construction and as it relates to requiring a Federal license or certification, is that in a continuing activity it would require a certification be granted—and this is the key, as I understand it—what do they have to certify? As I read it on page 74, line 5, they have to certify "that such activity will be conducted in a manner which will not reduce the quality of such waters below applicable water quality standards."

So I ask the gentleman: Is it not correct that the thrust of the initial certification, for the certification itself under the gentleman's amendment, is that when in operation that facility has to conform to the applicable water standards? So really if it does not conform, that condition of the certification itself will continue to control, making certain that those standards are conformed to.

Mr. EDMONDSON. That is my understanding. I would hope that the licensing and permitting agencies will have the same feeling about it, that the certification is a safeguard that assures early attention to the problems when they design and build the plant, but that it is also a continuing safeguard to the State and that it is a safeguard that is meaningful to the State. I hope the licensing and certifying agency would construe it in that way and undertake to correct any violations

Mr. CRAMER. With that assurance and as I read the language of the gentleman's amendment, and the basic legislation before us, I support the gentleman's amendments offered en bloc.

[p. 9266]

Mr EDMONDSON. Mr. Chairman, I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chair-

man, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. As I understand the objective and thrust of the amendment offered by the gentleman from Oklahoma (Mr. EDMONDSON), there is to be no sacrifice as far as water quality standards are concerned; it is principally designed to facilitate the procedures; is this true?

Mr. EDMONDSON. I believe the major problem disturbing the gentleman on the Joint Committee on Atomic Energy was the new statutory requirement for a second certification, involving other States as well as the State in which the facility is located.

Mr. DON H. CLAUSEN. This will in fact eliminate the dual certification requirement?

Mr. EDMONDSON. One of the amendments will have that effect.

Mr. DON H. CLAUSEN. I urge support of the amendment

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from California.

Mr. HOLIFIELD. I thank the gentleman for yielding.

I believe I support the principle of eliminating water pollution as much as any Member of the committee. I am very much concerned.

It is my understanding also, I might say, that we are referring to thermal plants, which include nuclear energy but also include conventional energy or any other kind of thermal pollution that goes into these streams. It is my understanding that all of these facilities—whether they be conventional, papermill, or nuclear—will comply and will be forced to comply to the applicable water quality standards of the specific State which may be involved.

Mr. CRAMER. The gentleman is correct. It is contemplated before too long every State will have such standards.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment.

I do not believe the full impact of the amendment is really understood by the members of the committee. It is in fact a very dangerous and damaging amendment for those who are seriously concerned about pollution.

I intend to offer, as soon as I can be recognized, an amendment dealing with this problem of thermal pollution, because I do not believe that the legislation as reported from the committee, as I mentioned on yesterday during the general debate, is really strong enough.

The gentleman from Florida says eventually we are going to have adequate State standards, but the fact of the matter is that we do not have them now in most States, and not even in the State of New York.

The problem of thermal pollution is a relatively new problem, and certainly it is not one that has created the kind of damage we have seen in oil pollution, about which we are doing something now. After the horse is stolen we are closing the barn door.

Thermal pollution occurs when one pumps heated water into the small lakes and streams, which is taken out of the stream at a cooled temperature and is used to cool the nuclear reactors, and then is put back into the lake or stream.

This is now being proposed on Cayuga Lake, one of the distinguished and beautiful Finger Lakes of New York State. I quoted yesterday inexactly from the distinguished alma mater of Cornell University, in introducing my remarks, but the fact is that far above Cayuga's waters we do have this problem at the present time.

Unless we move quickly now to prevent this kind of thermal pollution, which can destroy wildlife, which can destroy fish, and which can increase the growth of weeds, we are going to ruin a great many of the Finger Lakes, and ruin other small recreational lakes in the districts of every one of the Members.

Members have not heard about this,

probably, if they have not begun building nuclear power plants in their districts but as the gentleman from California and the gentleman from Oklahoma have said, there will be a lot of new plants built in the next few years.

What this amendment proposes is that if any of the plants get constructed without cooling towers or cooling basins, being required, if they can get the construction grant before these State standards have come in, they can continue to operate in this way without any necessity for getting an additional operating certificate 2 years later.

It will be a long time before we get the appropriate State standards, and the plant on Cayuga Lake is proposed for construction now. The Atomic Energy Commission may be meeting even later this spring to act on their application. Unless we get tough standards in this bill the damage may already have been started when that permit is granted.

It would be a sad tragedy if we told these nuclear powerplants this. Surely, the gentleman from California wants to encourage construction of nuclear generating plants.

I do not object to that. Nuclear power is here to stay. But let us insist that we have proper protection against thermal pollution in these plants. If you do not do it now, you will be hearing from the conservationists in your area. The gentleman from New York (Mr. ROBISON) and I can guarantee you that, because we have heard.

Mr. Chairman, this amendment should be defeated.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr EDMONDSON. I regret personally that I had not seen the gentleman's amendment or had an opportunity to look at it until this minute, and I regret that I do not have a carefully formed judgment about it. There may be considerable merit to the gentleman's amendment.

Mr. STRATTON. What the gentleman's amendment would do would even compound the situation even if my amendment were not to pass. That is what disturbs me.

Mr. EDMONDSON. I fail to understand how the gentleman concludes that it will compound a situation in view of the fact that the certification that is originally given on these facilities is a continuing requirement upon the facilities and it is not something that is terminated with the construction. Furthermore, the amendments recommended do not affect in any way the provision on lines 6 to 13 of page 75 requiring certification by States for facilities on which construction began prior to passage of this act.

Mr. STRATTON. If the gentleman will permit me to say it, if this bill will pass, there is not going to be any requirement for certification. If the bill is passed in the form in which it exists now, with the gentleman from Oklahoma's amendment added, there are not going to be any real binding New York State requirements to deal with thermal pollution. That means a nuclear powerplant will be built far above Cayuga's waters and will be damaging Cayuga Lake and we will have no opportunity, as the bill is now written, to come back in 2 years with a requirement that it cannot continue to operate under those loose and ineffective State standards on thermal pollution.

Mr. EDMONDSON. Will the gentleman yield?

Mr. STRATTON. I will be glad to yield

Mr. EDMONDSON. Of course, if there are no State standards, then the Federal Government is at liberty under this bill to impose standards itself and require certification by the secretary. The bill assures against any escape from certification.

Mr. HOSMER. Mr. Chairman, I rise in support of the amendments

Mr. Chairman, I fully appreciate the gentleman from New York's concern

over what he terms thermal pollution. Almost all economic activities that we carry on, including the making of ice, involve some amount of disposition of heat into the environment. In some cases you can logically term this thermal pollution. In other cases you might term it thermal enrichment because the warmer waters will enable you to produce better crops on irrigated land and to produce larger harvests of fish for human food consumption in ponds and so on. So you cannot take this business of what happens to heat in the abstract and pin the label "b-a-d" on it and get up here and legislate against it. Particularly—and this is what I want to call to the attention of the gentleman from New York—you cannot consider the matter of thermal effects in the abstract in another sense. What these nuclear electric generating plants and conventional electric generating plants are being built for is to supply a very critical need by the American people and the American economy for an increasing amount of electric power. We double over every period of 10 years in this society of ours our requirements for electric power. Now, that means if we are going to support and sustain the type of economic advancement this country has become accus-

[p. 9627]

tomed to, we are going to have to find some place to put the generating stations

And let me say that the conventional generating stations dissipate heat only at a fractionally lower amount into the environment than do the nuclear generating stations.

We here in Washington cannot be the arbiter of whether in the State of New York the need is greater for this added electrical capacity, or whether the need is greater to keep Lake Cayuga's waters on an average annual basis as to temperature—from going 1 or 2 degrees higher in temperature than it is today. The people of New York are going to have to make up their minds as to which is the most valuable to them. They are going to have to decide as between the temperature of Lake Cayuga or possibly some other lake, and whether they want to have blackouts in the last half of the 1970's due to the lack of electrical generating capacity to meet the new load growth for electricity developing over that period of time.

I do not believe that we would be asked by the gentleman from New York to make that decision here in Washington despite the fact that the allegation is made that all the wisdom of the country resides along the banks of the Potomac. Actually, the gentleman's people in New York and in other parts of the country are going to have to live with or without electricity, they are going to have to live with or without a slight amount of thermal enrichment in some of the waters of their areas if they are going to have their electricity requirements fulfilled. Therefore, since this is something that is personal to them and to their environment, and despite the fact that the gentleman from New York is not happy about the status of the law on thermal pollution in the State of New York, I do not believe the burden is upon us here in Washington to attempt at the present time to make that decision for them. To do what he suggests would erect an almost unscalable barrier to installation of electric generating capacity, not only against the people of New York, but against all the people of this country.

I think if the gentleman from New York is dissatisfied with the standards that have been established by the State of New York, as a citizen of the State of New York he should appeal to his duly-elected State representatives. They write him letters as a Member of Congress on Federal issues, so, perhaps the gentleman can write letters to them with reference to this matter which is a State issue.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ROBISON. Mr. Chairman, I move to strike the requisite number of words.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me in order that I may respond to the statements which have been made by the gentleman from California?

Mr. ROBISON. Yes, I yield briefly to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I should like to comment upon what the gentleman from California has said. The gentleman from California does not understand that the question of a construction permit for a plant on Cayuga Lake could well be settled prior to this legislation being enacted. The Atomic Energy Commission has no authority to consider thermal pollution.

I have no opposition to the development of nuclear power-generating facilities. All I am suggesting is that when we build them let us build them in such a manner as not to have thermal pollution. That can be done, but it will not be done unless we have some kind of protective legislation enacted before this bill becomes law.

Mr. CRAMER Mr. Chairman, will the gentleman yield?

Mr. ROBISON. I yield to the gentleman from Florida.

Mr. CRAMER. I think the gentleman from New York (Mr. STRATTON) is wrong. I say this for three reasons; First he wants Federal standards, and I do not know of anyone else with the exception of a few, who does. I certainly do not want Federal standards. That is what we would have to have in order to accomplish the objective which is sought by the gentleman from New York (Mr STRATTON).

Second, he is saying that, perhaps, this bill will become law before they get a construction permit. It seems to me that the gentleman is assuming that is the case, and I am not willing to assume it. He is a pretty good long way away from getting a permit for construction of that plant. But, assuming that is true, you still have the requirement of conforming to the standards of that State relating to thermal pollution, and all other pollution which is required under the present law and now in the future So long as that plant operates it will be subject to the thermal pollution standards of the State of New York, and subject to the court's enforcement powers under the basic law. If they were to get a permit, the controlling factor still would be what that State's standards are with regard to pollution, and not what the Federal Government says.

Mr STRATTON. Will the gentleman yield further?

Mr. ROBISON I would like to take part of my own time now, if I might for a moment.

Getting back to the issue as I see it, this is not the time to discuss now whether we should have Federal standards or State standards here, but to discuss this particular amendment, instead

Let me say, in whatever time I have left, that I am sorry the committee has seen fit to change its position with respect to dual certifications. It seems to me it has changed its position for one reason, at least, that lies at the heart of this debate over dual certification, in that it does seem to place an unfair disadvantage on those who wish to build nuclear powerplants while those who build instead fossil-fueled powerplants are not required to obtain two Federal licenses or permits, but at best only one, and that from the Corps of Engineers, not the Atomic Energy Commission.

Now, I can see why the committee does not want—or anyone wants—to put any unfair barrier in the path of nuclear powerplants that is not going to be faced by those who might build fossil-fueled powerplants. But let me ask this question—and I would like to direct it to the attention of the gentleman from Oklahoma (Mr. EDMONDSON).

We know all too little yet about thermal effects or thermal discharge, and we do not know yet even how to define "thermal pollution" We are doing a lot of Federal research into this particular problem as well as into other aspects of the water pollution field. If we learn, as

a result of this additional research, that some of the safeguards that are contemplated as necessary now in order to prevent thermal effects from becoming thermal pollution are not adequate, are we not by this amendment in effect freezing a State's ability to review and update its water quality standards in this respect?

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. ROBISON. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I tried to make it as clear as I could in my own remarks that I did not personally have the view that the gentleman has about freezing the water standards of a State. It was my view that a State should be endeavoring constantly to upgrade its water standards, so that there would be in any of these certificates and in any of these permits the continuing obligation upon the operator to try to meet the new water standards of the State.

Now, if the gentleman just wants to say that we are not going to build anything that has a remote possibility the potential of having some adverse effect, we can stop the construction of every powerplant in the country. I believe that could be the effect of what the gentleman from New York—not the gentleman in the well—is suggesting here as a procedural amendment at this point.

But I believe there is a duty on the part of the committee to enable the country to go ahead with some construction permits under the understanding that we would have a continuing review authority in the issuing agency, and in fact a requirement for that continuing review.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. EDMONDSON, and by unanimous consent, Mr. ROBISON was allowed to proceed for 3 additional minutes).

Mr. ROBISON. Mr. Chairman, will the gentleman answer another question I put to him then, in this way: Supposing the Atomic Energy Commission grants a construction permit for such a plant, and then in the intervening 3- or 4-year period between the granting of the construction permit and the time when the plant gets ready to go "on the line," as they say, and the utility comes back to the AEC for its operating permit, supposing the condition of the stream that is to receive this thermal discharge has changed substantially; supposing the State now wants to update and review the certification that it sent down to the AEC 3 or 4 years ago and now says, "Additional safeguards are needed beyond those that we thought were needed at the time of beginning construction," this

[p. 9268]

is a theoretical question that I am presenting to you—but what happens then?

Mr. EDMONDSON. That is one of several possibilities that were discussed well into the night last night, and changing conditions could develop in a number of ways when one of these permits is issued.

When you have changing conditions and when you have a different situation prevailing, I think it would be incumbent upon the Atomic Energy Commission to take a second look at the permit that has been issued.

I think the State also would have the absolute right, as I read this legislation, at any time it reaches the conclusion that there is going to be an adverse effect from the operation of this facility—anytime it reaches that conclusion that its actual conduct of the operation is not going to measure up to the assurances that were given, I think the State would have the right to withdraw its certification.

Mr. ROBISON. Then the State would have to go to court or the Federal Government would go into court to obtain a restraining order with respect to this plant at that point in time, as not being in conformity with the water quality standards of the State as then in effect?

Mr. EDMONDSON. I think the right to go to court would be present at all

times and is not affected by the statute.

If we are talking solely about nuclear facilities and the withdrawal of the certification that the State granted the operator, I believe on withdrawal; the Atomic Energy Commission would be obligated to call in the operator and to advise him the situation should be corrected or he would be required to shut down the operation.

Mr. ROBISON. I appreciate the gentleman's clarification for the record. I must say I still regret the change in the committee's position, and I hope the amendment is defeated.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ROBISON. I yield to the gentleman.

Mr. STRATTON. Would the gentleman from Oklahoma agree that the amendment makes it purely optional with the Atomic Energy Commission and puts no mandate on it. As a matter of fact, knowing the record of the Atomic Energy Commission with regard to thermopollution, I would not be as optimistic as the gentleman is.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield so that I may respond to our colleague?

Mr. ROBISON I yield to the gentleman.

Mr. EDMONDSON. I have reached the conclusion in the period of time that I have been here that it is almost impossible to mandate any agency to do anything. We are trying within the limits of our legislative ability to mandate them to do what is right in this situation.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Oklahoma (Mr. EDMONDSON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr MATSUNAGA On page 55, line 23, immediately after "includes" insert the following: "the States, the District of Columbia,".

Mr MATSUNAGA. Mr. Chairman, the amendment I have offered is purely a technical amendment intended to provide consistency and uniformity of language.

The definition of "United States" on page 39, line 22, of the bill includes the District of Columbia. However, the District of Columbia is not included in the same definition which appears on page 55, line 23, purely through inadvertence according to testimony before the Rules Committee, of which I am a member. My amendment would include the District of Columbia in the second definition to negate any inference that its omission in the second instance was with a specific legislative intent.

Mr. FALLON. Mr. Chairman, will the distinguished gentleman yield?

Mr MATSUNAGA I yield to the gentleman.

Mr. FALLON. Mr Chairman, the committee on this side accepts the amendment offered by the distinguished gentleman from Hawaii.

Mr. CRAMER. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

The amendment was agreed to.

AMMENDMENT OFFERED BY MR CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr CLEVELAND: On page 78, after line 22, insert the following

"SEC 8 The Secretary of the Interior shall conduct a full and complete investigation and study of the feasibility of any and all methods of financing the cost of preventing, controlling, and abating water pollution The results of such investigation and study shall be reported to Congress no later than January 1, 1970, together with the recommendations of the Secretary for financing the programs for preventing, controlling, and abating water pollution, including any necessary legislation "

Renumber succeeding sections accordingly

Mr. CLEVELAND Mr Chairman, the purpose of this amendment is fairly clear.

We are directing the Secretary of the Interior to conduct a study as to the feasibility of any and all methods of financing federally supported water pollution programs.

I think most of us realize that over the years our Committee on Public Works in connection with various water quality acts have authorized very substantial sums, but when it has gotten down to the actual appropriating process the state of the budget and the state of the Nation has not permitted the full appropriation of the authorizations.

We find again and again as we study the various States and the various communities that are concerned about this matter an overwhelming backlog of projects that have been approved and cannot be financed. It is causing a great deal of difficulty in the States and local communities. I discussed this subject during general debate yesterday at some length, and I am not going to repeat all of that now.

I might say, and I want to make this particularly clear in the record, that my own personal recommendation would be that we establish some sort of trust fund financed by user fees, taxes, or excises similar in nature to the highway trust fund, which has been so notably successful in financing the interstate and the primary and secondary road networks in this country. However, my amendment does not spell out that the study will be directed only in that direction. It is much more general. The purpose of this is to give the Secretary complete latitude in connection with the studies that we ask him to make under this amendment.

I think that almost every Member will find, as he goes back to his State or district, that there are a tremendous number of sewage treatment facilities that are on the books, that have been approved, but are awaiting financing. I think it is fair to say that financing is still the No. 1 issue involved here.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Florida.

Mr. CRAMER. I would like to suggest to the gentleman that I believe his amendment has considerable merit. I intend to support it. As the gentleman knows, we had financing provisions in the bill last year. For reasons known to all of us, that type of financing was not included in this bill. So the point is that until we get at this problem of financing sewage treatment plants, we are really not going down the road of solving water pollution problems. There is no use kidding ourselves. It takes adequate financing on the local level, or a partnership on the local, State, and Federal level; does it not? Your study would hopefully give us some guidance.

Mr. CLEVELAND. Exactly. It does just that. I might also add that—the gentleman from Florida has been something of a leader in this regard—tax incentives to improve or make it more attractive for industry to build pollution-abatement facilities is something that the gentleman from Florida has long urged and, of course, I think that might be included in this type of study, or I hope it would be.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Michigan.

Mr. DINGELL. I believe the gentleman has a meritorious amendment, but there are some questions I would like to ask. It may be that there are some things in there that my good friend from New Hampshire has not seen. The amendment states:

> The Secretary of the Interior shall conduct a full and complete investigation and study of the feasibility of any and all methods of financing the cost of preventing, controlling and abating water pollution The results of such investigation and study shall be reported to Congress no later than January 1, 1970.

One of the critical problems we have had in this business of water pollution abatement and water pollution control

[p. 9269]

is that we have not been able to make

adequate funds available to the States under Public Law 660, with the result that many of the State programs are lagging in cleanup. They are being held up because of inadequate Federal financing. What I want to know is whether the amendment would preclude the Congress from proceeding independently. Will we be compelled to wait until the detailed study is completed by the Secretary of the Interior? I think the Congress has some responsibility to move in this area. I would be loathe—and I am sure my friend would be equally loathe—to have Congress precluded from moving if and when the Congress might conceive of an adequate device to finance these programs. I think the gentleman is well aware of the fact that the Secretary now has authority under Public Law 660 as amended to do precisely what the provisions of the amendment would do.

Though I applaud the amendment, are we not getting ourselves into a box here?

Mr. CLEVELAND. While we have authorizations appropriation through the next fiscal years, I cannot see how we could be doing that.

Mr. DINGELL. The gentleman knows that the Public Works Committee in the past 3 fiscal years has discussed this subject with everyone—members of the Department, members of the executive agency, and individual Members of Congress.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

(On request of Mr DINGELL, and by unanimous consent, Mr. CLEVELAND was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. It is well known and everybody is agreed these were sums that were not feasible but were desperately needed. But to get back to the point we are talking about, how are we going to be sure, if this amendment goes through, that Congress is not going to be precluded from the possibility of financing, or will it have to wait to get the recommendation from the Secretary?

Mr. CLEVELAND. There is nothing in my amendment that is going to prevent our going right ahead. But our authorization of $700 million is matched by a much smaller appropriation request.

Mr. DINGELL. In excess of $214 million?

Mr. CLEVELAND. $214 million. I do not contemplate the Nixon administration is going to increase that. I think they are going to keep it at that figure. There is nothing in this amendment that will interfere with that whatsoever.

Mr. DINGELL. The gentleman does not respond to my question. What is on my mind is this. Does the gentleman's amendment say Congress is going to have to wait until some secretary or some bureaucrat downtown comes up with a suggestion as to how we are going to finance it?

Mr. CLEVELAND. Will the gentleman confine his question to one point?

Mr. DINGELL. I tried to.

Mr. CLEVELAND. Then the answer to the gentleman's question is no.

Mr. DINGELL. The amendment reads a little differently. It says:

> The results of such investigation and study shall be reported to Congress no later than January 1, 1970, together with the recommendations—

Are we going to have to wait, as a result of this amendment until we have a recommendation from downtown, or until there is consideration of it by the Public Works Committee at some future time, or will some bureaucrat say, "On this we have a study going on." Will we have to wait until that study is completed? It is well known it is the practice, when the agencies do not want to take some action, for them to say, "We have a study. You wait 2 or 3 years until our study is completed, and we will give you some information."

I think, with my friend, this is important. In Public Law 660, as amended, we do have authority for the Secretary to do what is in this amendment. I think we are doing something here that will have results far beyond what the gentleman

anticipates. That is, we would be delayed in consideration of alternative methods of financing. These are the questions I am directing to my friend.

Mr. CLEVELAND. There are a great many questions there.

Mr. DINGELL. No. It is very simple. They all revolve around one point.

Mr. CLEVELAND. Then my answer is "No." There is nothing that would preclude us from going ahead. If the gentleman has some ideas, perhaps he would offer them and I'd be delighted to support them if they get at this problem of financing the fight against water pollution.

Mr. DINGELL. I have considerable affection for my friend, but I do not agree with him on this point. I do not think he is correct.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I support the amendment offered by the gentleman from New Hampshire. This approach would mean a great deal to my State of Maryland.

Mr. Chairman, I commend the gentleman for his excellent amendment to this bill in which he recognizes and points to the necessity of adequate financing for the legislative proposals directed toward controlling water pollution. He specifically urges a plan whereby the Secretary of the Interior would conduct investigations and studies to determine the most efficacious financing arrangements in support of pollution control enactments.

I have experienced a similar need as a Representative of the Eighth Congressional District of Maryland. Maryland streams including the Potomac and Patuxent will deteriorate miserably if the funds are not found to finance our anti-pollution measures. While Congress has been quite generous in passing legislation which authorizes substantial amounts of money to combat pollution, it has been remiss in making the actual appropriations of funds when the time came for coming across with the money to institute the programs devised. Over the past 10 years the State Legislature of Maryland has authorized a $176 million debt for water pollution expenses, $150 million of which has been in the past 2 years. One reason for the enormity of these debt amounts is because the Federal Government has not come through with a proportionately great enough share. In fact it was reported only 2 weeks ago that Congress has come up more than $50 million short on its promises to share the cost of building sewage treatment plants in Maryland under provisions of the Water Pollution Control Act. The Federal Government has pledged to contribute $54 million this year to go along with the $49.9 million put up by the State; but only $3.9 million will come from the Federal Government when the fiscal year ends on June 30.

Therefore, I urge adoption of the amendment of the gentleman from New Hampshire as a strengthening feature to the Water Quality Improvement Act of 1969.

I also would like to take this opportunity to express my support for this bill in its entirety as it speaks to the need for standards of pollution control on the navigable waters of the United States and to the need for sound efficient enforcement procedures to cope with any deviance from those standards. Furthermore, the stance which it permits the Federal Government with respect to insuring future progress in pollution control is most encouraging: research and vocational incentives will be significantly advanced by the scholarship grants provided for in this Act.

Therefore, I urge adoption of the amendment and the entire bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I

offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON On page 74, line 24, strike out "In" and all that follows down through and including the period on line 13 of page 75.

On page 75, line 21, after the period insert the following. "Nothing in this subsection shall apply in the case of any applicant for a Federal license or permit to conduct any activity which may result in any thermal pollution to which subsection (c) of this section applies "

On page 75, line 24, strike out the quotation marks and after such line insert the following

"(c) (1) As soon as possible after the enactment of this subsection, the Secretary, after consultation with each Federal agency issuing licenses or permits to which this subsection applies, shall promulgate Federal water quality standards which shall be expressly designed to prevent thermal pollution of any waters located in the United States, by any activity licensed by any Federal agency or operated under a permit issued by any Federal agency.

"(2) After the date of the enactment of this subsection, no Federal agency shall issue any license or permit to an individual, firm, corporation, partnership, association, State, political subdivision of a State, or any other public body or agency with respect to any activity which may result in any discharge into any of the waters of the United States which may result in the thermal pollution of such waters, unless the Secretary, after

[p. 9270]

consulting with the appropriate State water pollution control agency, and, when appropriate, after public hearings, certifies, under such reasonable terms and conditions as he may prescribe, to such Federal agency that such activity will not reduce the quality of such waters below the Federal standards promulgated under paragraph (1) Each such Federal agency shall include in any such license or permit the terms and conditions prescribed by the Secretary as he deems appropriate to control the discharges or other activity in a manner that will not reduce the quality of the water below such standards. The Secretary shall establish such procedures as may be necessary in carrying out the provisions of this subsection, including, where appropriate, an opportunity for public hearings conducted by him or the Federal agency issuing such license or permit Each such Federal agency is hereby authorized to include in any such license or permit such terms and conditions as such agency determines, after obtaining the advice and recommendations of the Secretary to be appropriate to protect water supplies, fish, wildlife, recreation, and aesthetic values affected by such activity

"(d) In any case where actual construction of a facility for the conduct of any activity has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1969, no certification shall be required under subsection (b) or subsection (c) of this section for a license or permit issued after the date of enactment of the Water Quality Improvement Act of 1969 to conduct such activity, except that any such license or permit issued without certification shall terminate at the end of the two-year period beginning on the date of enactment of the Water Quality Improvement Act of 1969 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 which otherwise meets the requirements of subsection (b) or subsection (c), as the case may be

"SEC 4 Subsection (a) of section 1 of the Federal Water Pollution Control Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: 'including thermal pollution.'

"SEC 5 Section 13 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following:

"'(b) The term "thermal pollution" means the addition of heat or some heated substance to any waters, which addition will result in a reduction in the quality of those waters for use for public water supplies, propagation of fish and aquatic life and wildlife, for recreational purposes, or which may endanger the health or welfare of any person' "

And redesignate existing sections 4, 5, 6, 7, and 8 accordingly

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Chairman, I have already raised in connection with the amendment offered by the gentleman from Oklahoma this question of thermal pollution. This is the thermal pollution amendment which I have referred to and which I explained very

briefly in a letter which should have been in everybody's office at least by this morning.

Thermal pollution is a problem created when heated water otherwise perfectly pure is discharged into a body of water, particularly a small lake; and when the temperature is raised by even a few degrees, so the scientists tell us and the conservationists and sportsmen are well aware, this can not only encourage growth of weeds, which are a problem already in many recreational lakes, but eventually it can kill all the game fish, so we have nothing but carp and a few other such fish left in the lake.

This is the problem we face with the proposed construction of a nuclear powerplant in Cayuga Lake. The scientists at Cornell University pinpointed this problem, and they created public recognition of it, and this led evenutally to deferral of construction plans by the New York Electric & Gas Co.

The demand for nuclear powerplants is going to increase. They are running out of oceans and fast-running rivers. If they can construct a plant on Cayuga Lake they can construct one on Seneca Lake and they can go to any one of the 1,000 lakes in Minnesota or to any other State; and we can have a very serious problem.

I am concerned that we should act to prevent this problem before the damage is done rather than moving to act after a good deal of damage has been done, as we are doing in this bill with regard to oil pollution. We are closing the door after the horse has been stolen from the barn. I believe we ought to close the door while the horse still is in there.

What the committee's proposed legislation would do is require certification depending on the applicable State standards. The fact of the matter is that at this particular time there are not any really binding State standards.

We usually like to think of New York as the most progressive of the States; certainly it is, at least in terms of raising taxes. But when it comes to thermal pollution, we have very wishy-washy standards. They have a strong bill which passed the Assembly, but my information is that it will not get out of the Senate, and if it does the Governor will veto it.

If we are to rely on the State standards, we may find that the pressure of the utilities are greater than those of the people who want to save the lakes.

Although I join the gentleman from Florida (Mr. CRAMER) in a general abhorrence for substituting Federal standards for State standards, if we are really to act quickly and to prevent this problem before it gets started, we ought to institute the standards. The Department of Interior has studied this. They know the problem. They know the kinds of standards to set. We ought to insist that those standards be applied whenever there is a problem of thermal pollution.

That is all my amendment will do. It repeats some of the language there, with a few changes to put in separate standards for thermal pollution as against the other kinds of pollution.

If we wait for the States to be reminded that they have to tighten up their laws, by the Federal Government, we may find we have waited too long.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am happy to yield to my colleague from New York.

Mr. OTTINGER. I should like to congratuate the gentleman on a very important amendment. It makes a very significant contribution in this vitally important field.

We see the danger of thermal pollution all over the country now. In my own congressional district the Consolidated Edison Co. of New York has plans to put five nuclear plants on one very narrow stretch of the Hudson River. We may find that this will create a heat block and result in the killing of all of the fish life in the Hudson. This would mean destroying the sport fisheries business and the recreation business for

not only the entire Hudson area, but as far as Long Island Sound.

I, along with other Congressmen and Senator KENNEDY, have sponsored legislation to provide for siting nuclear plants for the future to assure placement of plants so as to minimize both nuclear and thermal dangers.

I believe the contribution the gentleman is making here, requiring Federal standards until such time as the States can catch up with this problem, is a very significant supplementary contribution to resolution of this problem and I wholeheartedly support the amendment.

Mr. STRATTON. I certainly appreciate the gentleman's support. I know he has done a magnificent job in fighting the threat of pollution in his area.

Actually, I was not aware of the problem of thermal pollution until about a year ago, when the implications of the construction at Cayuga Lake brought it to my attention. A lot of the other Members may not be aware of it. If they ever start building one of these plants at a small lake in any district, the Member will hear about it, and hear loudly from the conservationists in his district.

Mr. KEITH. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to the gentleman from Massachusetts.

Mr. KEITH. I read over a year ago about thermal pollution on the Hudson River, I believe. I know of nuclear and other powerplants on salt water.

Does the amendment in any way affect the plants using fossil fuel instead of thermonuclear fuel, or running fresh water for a seacoast plant?

Mr. STRATTON. Yes. It would apply to any powerplant constructed with a Federal license anywhere. I am not enough of an expert, but I assume there is not so much of a problem with regard to the ocean, because there is so much water that the temperature would not rise appreciably.

Mr. HARSHA. Mr. Chairman, I rise in opposition to this amendment because it would do violence to the whole concept of the Federal Water Pollution Control Act. That act vested the primary responsibility to fix water quality standards in the individual States. The Congress, when it unanimously adopted this act, recognized the principle that the States were in peculiar position to pass

[p. 9271]

judgment on this issue. The Congress determined that they were much better qualified to determine their own environment, to determine their own economic needs, and to determine their own industrial demands to determine the appropriate uses of the State waters, and to determine the needs for water quality standards and inform the States that act provided that each State should establish water quality standards subject to the approval of the Secretary of the Interior. If these standards are not sufficient in the opinion of the Secretary of the Interior, then he can reject those standards and inform the States that they should upgrade them. In many cases this has been done.

So, Mr. Chairman, the Federal Government does, in effect, have some control over the individual States and the standards which they adopt. But if we were to adopt this amendment, we would be doing complete violence to the theory and philosophy of the present Federal Water Pollution Control Act that is that primary responsibility rests with the States. We would be taking away from the individual States their right to govern their own affairs. For that reason, I oppose this amendment and hope it is defeated.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr HARSHA. I am happy to yield to the gentleman.

Mr. LATTA I know that the gentleman is very much against any type of pollution, including thermal pollution. We must strive to eliminate all pollution—none must escape our attention.

I am wondering whether or not, in view of the importance of this amendment, it was discussed and considered in your committee.

Mr. HARSHA. This particular amendment, as I recall it, I do not believe was discussed, but the issue of thermal discharge into the waters of the United States was very thoroughly discussed. We had a member of the Atomic Energy Commission before the committee to testify on this subject. There is general disagreement as to whether or not this thermal discharge is thermal enhancement or thermal pollution. We are not far enough advanced in our research and studies to recognize it unequivocally as thermal pollution.

Mr. LATTA. As I understand it, the Atomic Energy Commission requires these plants to meet the water quality standards of the States before permits are issued? Is this not correct?

Mr. HARSHA. They are required to meet the water quality standards established by the individual States.

Mr. LATTA. Is this not being done in New York State?

Mr. HARSHA. The objection here was that in the opinion of the author of the amendment he did not think the State standards were stringent enough and he wanted Federal standards superimposed upon them.

Mr. ROBISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hesitate to take the time of the Committe to further discuss this troubling problem of thermal pollution, but I think we could stand to consider it for a few minutes longer.

It would be accurate to say that we stand on the threshold of a new era in the production of electric power in our Nation. As our Nation grows and its people's standard of living improves, we can expect, as someone said a moment ago, to see the demand for electricity go on doubling as it has every 10 years and, as potential hydropower sites are used up, more and more of this demand for electricity will nave to be met by steam generating plants, some of which will be fossil fueled while others will be nuclear fueled. These plants will require enormous quantities of cooling waters. The waste heat, called thermal discharges, from such plants now affects something over 7 percent of all of the available fresh water runoff in the 48 contiguous States, a figure which has been projected to rise to more than 16 percent by 1980, and on to about 50 percent by the year 2000, if conventional "once-through" cooling procedures were still in use at that time.

Mr. Chairman, even if the waters of our lakes and streams were now as clean as they ought to be, it is obvious that this situation would pose an environmental and ecological challenge of massive proportions.

Mr. Chairman, with 44 nuclear powerplants moving now toward construction here and there around the Nation, and some 42 more in the planning stage, it also would be obvious that action may be fast outrunning our ability to apply reasonable environmental controls and safeguards, especially since such powerplants use far more cooling water than conventional fossil-fueled powerplants. It has been estimated, for instance, that the proposed nuclear powerplants on Cayuga Lake in New York to which the gentleman from New York (Mr. STRATTON) has made repeated reference, will circulate through its cooling system about one-quarter of Cayuga's volume of water each year. When one relates that fact to the further fact that Cayuga, one of the so-called Finger Lakes, is a deep but relatively small lake—the smallest for which such a powerplant has been proposed—and is also what is called a "stratified" lake in the summer months, with "slow-flushing" characteristics, it becomes clear why concern has been expressed over what effect such huge discharges of hot water into it may have.

Now, certainly, the States should be permitted and encouraged to establish reasonable safeguards against such

plants adversely affecting the quality of the waters receiving their thermal discharges—safeguards against those discharges becoming what some people call thermal pollution.

Mr. Chairman, this bill addresses itself to this problem, and it does encourage the States to act.

Mr. Chairman, New York State has moved in the proper direction. Our Water Resources Commission has completed public hearings around the State on definitive new criteria in this respect, having done so under existing authority derived from article XII of the New York State Public Health law. As might be expected, the utility company involved suggests that those criteria are too restrictive in some respects, while others say they are not strong enough.

There is no point here in going into the details of that debate, for it will be settled by those technically competent to judge its pros and cons. But what this situation does illustrate is the fact that the States will move into this picture, are moving into it now, and I submit can be trusted to deal as effectively and wisely with this new newly recognized problem of thermal pollution as they have in other water pollution areas.

Now, my colleague, the gentleman from New York (Mr. STRATTON) urges Federal standards, instead. He is, of course, entitled to his opinion as to the necessity for that as I am to mine that it would be best to maintain, here, that same careful balance between State and Federal interests in this area of concern as was achieved on passage of the Water Quality Act of 1965.

Mr. Chairman, I cannot help but remember that my distinguished colleague, the gentleman from New York (Mr. STRATTON), appeared in the well of the House here in July of last year, inveighing and protesting against certain Federal standards as promulgated by the Department of Transportation relative to billboard controls under authority of the Highway Beautification Act of 1965. Perhaps, there is an adequate reason for his change of attitude; I do not know. I am sure there is in the mind of my colleague. But I do not believe that Federal standards in just one water quality area, would be wise or workable or necessary.

Therefore, Mr. Chairman, I hope the amendment will be defeated and the position of the committee sustained.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. ROBISON. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Chairman, I should like to commend the gentleman in the well for pointing out these facts, lest there be a misunderstanding that our States are not moving ahead. Certainly the State of New York, in the matter of dealing with thermal discharge, has, as the gentleman just pointed out. The New York State Water Resources Commission has just concluded hearings during this past month, and it is my opinion that we can anticipate in a very short time standards to be established in that State, and I am sure other States will follow.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr Chairman, I rise to direct some questions, if I may, to the author of the section beginning on page 67 of the bill. This has to do with training grants and contracts. It is my understanding—and I would like to ask the chairman of the committee or any other member of the committee who wants to answer this question—Is it the Secretary of the Department of the Interior who will be the

[p. 9272]

one who determines the grants to institutions, the scholarships and stipends that are going to be given to undergraduate students; is that correct?

Mr. CRAMER. If the gentlewoman will yield, there is a present provision

in the legislation, and under the present law that provides for precisely the same procedure for a similar purpose, but not so broad as this, and in my opinion it would not accomplish the objective, so it amends present section 5(d) which provides presently that the Secretary can provide training in technical matters relating to the causes, prevention and control of water pollution to personnel of such agencies and other persons with suitable qualifications. This is being done presently under the present water pollution control act, and this is an extension of that authority.

Mrs. GREEN of Oregon. It extends it to the tune of $62 million for the next 3 years

Mr. CRAMER. For the next 3 years. This is as a result of the report of the Senate relating to the subject matter of personnel in order to accomplish adequate water pollution control. This is based upon their findings as to the necessity for, the number and the estimated costs.

If the gentlewoman would consult the RECORD of yesterday she will see where I placed in the RECORD a synopsis of that report.

Mrs. GREEN of Oregon. Would the gentleman further advise me if there were any hearings on this particular section where people from higher education were called in? I would also like to know specifically: Is it not true that the students who might go into this kind of training are presently eligible for all of the other programs that are now available for our college and university students? And specifically would not students now being included in this program be eligible for the work-study program? Are they not now eligible for economic opportunity grants? NDEA student loans, guaranteed student loans?

Is it not true they they are now eligible for all these present forms of student financial aid financed by the Federal Government?

Mr. CRAMER, I will say to the gentlewoman that the report I referred to is Senate Document No. 49 of the 90th Congress, first session, at which time it was found that there are not adequate laws available to accomplish this, and there are not adequate trainees in training or programs available to train them for the purpose of this particular subject.

Mrs. GREEN of Oregon. Mr. Chairman, I believe that in almost every area where professionally trained people are needed there is a shortage, but I have serious question about setting up another program in terms of scholarships, in terms of financial aid programs, in terms of work-study for a particular purpose. On page 63 I notice there is a provision to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works. It is not true that any students who are in colleges or universities today would be eligible for the work-study programs and that such students who are working could be paid by the college or the university under federally financed programs?

Mr. CRAMER. May I say to the gentlewoman that I do not believe there is an adequate program under existence, moneywise or otherwise, to accomplish the purposes of this section, or I would not have introduced it in order to accomplish that objective, pursuant to the Senate report and printed document that I have referred to.

Mrs. GREEN of Oregon. Would the gentleman advise me if he called for hearings of any people in the field of higher education to find out the question of eligibility, for programs and for student financial assistance?

I would say to the gentleman that the students who are in the colleges and universities are eligible for work and study programs, which is exactly what this outlines on page 68.

I also have serious question about the scholarships. There is no reference in the bill that I can find as to the amount of scholarships that any student would receive. The bill provides 4-year schol-

arships with no ceilings and no requirement based on "need." Also it occurs to me that the students of those institutions of higher education who would be eligible for the program outlined here would not come under the provisions which were adopted last year by this Congress in regard to disruption of colleges and universities. At the present time the Committee on Education and Labor is looking into this whole matter of student assistance, financial aid to the students at the undergraduate level, and at the graduate level. At a time Congress is reviewing all of the student financial aid, it seems questionable to approve of a further proliferation under another agency of Governments.

I also notice that there is a provision that you are going to try to attract secondary students with a promise of financial aids. Is this going to be another upward bound program as talent search program duplicating again—programs that are already in existence?

I just do not understand the reason for this proliferation of financial aid programs. I see this happening more and more often on bills coming from the various committees.

We put in so many financial aid programs that nobody in Congress can keep track of them.

I hope the committee will reconsider and reject this part of the bill. The money could be better spent on other parts of the program so necessary in water pollution control.

Mr. WRIGHT. Mr. Chairman, it is painful to me, in one very important sense, to oppose the amendment offered by my good friend, the gentleman from New York (Mr. STRATTON).

Were I knowledgeable of the specific local situation about which he is concerned, I might quite well sympathize with his position concerning the establishment of a powerplant on Lake Cayuga.

In another sense I feel almost like an example of those fools who rush in where angels fear to tread—into the middle of this obvious New York flight.

But I think it is necessary to state the committee's position in opposition to the amendment offered by the gentleman from New York (Mr. STRATTON).

Basically, the reason we oppose the amendment is that we do not believe it would be wise to change the well-established rules simply to achieve a desired result in one specific case.

The gentleman from New York would create an entirely different procedure with respect to thermal pollution, which after all is only one, although admittedly one important phase of pollution, from these procedures we have uniformly applied with respect to all sorts and types of pollution since the beginning of the program.

I think it would be unwise for us to change this delicate balance that we have carefully and purposely created and preserved between the States and the Federal Government. The States promulgate their own standards, but the Federal authority must review and approve those standards. There were specific reasons for this arrangement, and it appears to be working well.

I think that this balance has done some very good things by encouraging the States and indeed requiring them individually to come up with State standards on all phases and facets of pollution. We have stimulated a very great deal of activity on the part of the States to help us to fight this great menace.

If the gentleman were simply to offer an amendment to require the Secretary in evaluating State's standards to take specific account of the adequacy of those State standards with respect to thermal pollution, I think there would be no objection on the part of the committee. Such an amendment would not be necessary in my opinion, as the Secretary already takes this into account. But, you see, the States fix the water quality standards initially. The gentleman's amendment would set up Federal standards for this one type of pollution and

place it in a completely different category from all other forms of pollution.

We feel that the State should draw the standards. But the gentleman's amendment would direct that the Secretary shall promulgate "Federal water quality standards, expressly designed to prevent thermal pollution." It seems to me consistent with the entire philosophy of our efforts heretofore to abate water pollution that we should require with regard to thermal pollution exactly the same situation that we have required with regard to other types of pollution.

The gentleman's State should be required to set standards in that regard.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman.

Mr. STRATTON. Mr. Chairman, the gentleman earlier in his remarks suggested that this situation applied to New York and would not apply anywhere else. As a matter of fact I feel there is nothing unusual here that could not occur in many other states. The only point is that New York has apparently been selected as the best bet when it comes to large

[p. 9273]

companies establishing a plant on a small lake, a very small one.

There are a lot of other lakes and there is no question there are lakes in the gentleman's home State. So it is not a unique situation and we are not dealing with a new problem.

While I recognize the need in general, if we are going to set standards, they should be set by the agencies that have done the research on thermal pollution and the States have just not done this research. Would it not be best in dealing with this problem if we write in protective legislation that we need in the situation, now before it takes place, rather than after the pollution damage is done and require the Federal Water Pollution Control Administration to set the standards, since they have done the research and are expert in the field.

Mr. WRIGHT. I appreciate the gentleman's concern, but in response to the gentleman's question I think it is necessary to point out that thermal pollution is not a new problem. Thermal pollution has existed, for example, here in the nearby estuaries in Maryland. It has occurred in Chesapeake Bay. Thermal pollution has probably been responsible there for the destruction of a number of former oyster beds and other shellfish habitations. I do not think that it is a new problem. I do not believe that the gentleman is quite accurate when he declares that the States are not conversant with this problem. I would be very much surprised were I to discover that the great State of New York, as progressive as it is in so many, many ways, and as interested as the people in New York and the leadership in New York have been with respect to water pollution, would not have had some standards developed, and would not be interested actively in preventing excessive thermal intrusion into its waters.

Mr. STRATTON. We have standards, but in New York State hearings are going on to decrease these standards now so as to permit those plants to be built.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

As I indicated before, I support the amendment offered by my distinguished colleague from New York (Mr. STRATTON) and I congratulate him for his work in this area. He has performed a very valuable service.

Thermal pollution, which can be caused by both nuclear and fossil fuel powerplants, presents us with a peculiar problem. Although the Federal Government licenses atomic plants that cause the problem, no agency accepts responsibility for it. The Atomic Energy Commission has specifically stated that it has no jurisdiction over thermal pollution and does not want it. The AEC's sole concern is for safety.

The AEC relies on the State conservation agencies to pass upon the effects

that a plant has on natural resources and experience doesn't indicate that that is a very effective method.

The Federal Power Commission, which does get involved in the environmental problems caused by projects under its jurisdiction, is restricted to hydroelectric projects and has no authority over either nuclear or fossil fuel plants. We propose to change this in the Electric Reliability Act, which is now before the Communications and Power Subcommittee of which I am a member. We want to retain AEC jurisdiction over safety and give the FPC authority to pass on other problems. But this is going to take time.

At the present time, the Federal Government is licensing and, in fact, promoting the development of atomic power plants and not doing anything about the serious problem of thermal pollution which these plants and fossil fuel plants cause.

Now this is not a case where the Federal Government is being asked to create standards which will supersede State standards. It is a case where Federal agencies are being asked to set standards to protect from adverse effects Federally licensed projects. The States cannot be relied on to carry the ball.

Much to my sorrow, I have to report that the State of New York does not have a very good record in this regard. In reply to my good friends and colleagues from New York (Mr. McEWEN and Mr. ROBISON) I must point out that while New York established good thermal pollution standards at the beginning, the State has recently moved to change those standards. The hearings to which they referred are not to strengthen those standards nor to see that they are more effective, but, at the behest of the utility companies, to change the definitions so that in at least one area, tidal estuaries, the standards are substantially lowered. I don't know what the motivation behind this change was, but the effect has been to make it easier for Consolidated Edison Co. to build a number of nuclear plants in the lower portion of the Hudson River, a tidal estuary. I am afraid there will be many situations with respect to federally licensed facilities where the pressure on the States from the utilities is just too great.

Mr. McCARTHY. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. McCARTHY. I thank the gentleman for yielding. I think it should be pointed out here that while New York State has set those standards, they really do not become operative until the Secretary of the Interior approves them. So that this is an additional protection here.

I think it should also be pointed out to our other distinguished friends from New York that if the State failed to establish standards—and I am thinking of other cases beyond Cayuga Lake—that the Secretary of the Interior could, indeed, intervene at that point and establish standards so that in terms of the gentleman's amendment, you already have a dual Federal involvement here. They can set standards, the Federals, if the State does not act within 2 years, and the Secretary of the Interior, in Washington, has to approve those standards or they do not become established.

Mr. OTTINGER. Mr. Chairman, what I would like to point out to the gentleman is that we held hearings with respect to massive fish kills caused by thermal effects of the Consolidated Edison plant at Indian Point, N.Y. These hearings were before the Fisheries and Wildlife Conservation Subcommittee of the Merchant Marine and Fisheries Committee Interior officials come to that committee and said that no agency of the Federal Government has jurisdiction with respect to thermal pollution from nuclear plants. They conceded that the problem is serious, that thermal pollution is destructive of natural resources and should be stopped, but, they said there was not anything they could do. They do not have the authority. The AEC does not have or want the author-

ity. The Federal Power Commission does not have authority. There is a void with respect to Federal licensing of facilities that cause thermal pollution and it should be taken care of.

This is particularly important, because so many thermal nuclear powerplants are being presented as alternative sources of power to reduce air pollution.

This is a big problem and it's going to get bigger. The Office of Science and Technology warned President Johnson that the bulk of the new generating facilities in this country over the two or three decades will be nuclear. They estimated that at least 250 new plants will be built and the plants will be a lot bigger, too. Each will have a capacity between 2,000 and the 3,000 megawatts as against 700 to 800 megawatts of today's plants.

Experts have estimated that within 10 years nuclear generating facilities will be using one-fifth of the total water runoff in this country. They will be using it for cooling and the effect of dumping the very, very hot water back into the lake, river or stream from which it came could be devastating. With the cooling devices now advocated, I am told that the water may still be as much as 25 degrees hotter than the stream. Furthermore, it will be dead water, deficient in oxygen and rich in the nutrients that foster the rampant growth of noxious algae that can "kill" a river or lake.

Nuclear plants have a lot to offer as new sources of energy. But we ought to be careful, before these huge investments are made, that we do have the necessary authority to regulate their operation so as to prevent destruction of our fish and wildlife.

Mr. Chairman, I support the amendment.

Mr. WRIGHT. Mr. Chairman, I wonder if we might get some agreement on a limitation of time.

The CHAIRMAN. Is there further discussion on the amendment offered by the gentleman from New York?

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that all debate on this amendment conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas.

There was no objection.

The CHAIRMAN. The gentleman from New York (Mr. MCEWEN) is recognized.

Mr. MCEWEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. STRATTON).

Mr. Chairman, I yield to my colleague, the gentleman from New York (Mr. ROBISON).

[p. 9274]

Mr. ROBISON. Mr. Chairman, I appreciate the gentleman from New York yielding.

I would like to respond to what my colleague, the gentleman from New York (Mr. OTTINGER), said a moment ago with respect to the opinion he has that the New York State Water Resources Commission is moving to decrease or to erode or to weaken whatever water quality standards we have covering thermal pollution.

Here is a copy of the statement by Mr. Alfred W. Eipper, who is an associate professor of fishery biology and leader of the New York Cooperative Fishery Unit at Cornell University, and chairman of the Save Cayuga Lake Committee, as presented to the Water Resources Commission public hearing in Syracuse in March. Among other things Professor Eipper says:

> My compliments to the Water Resources Commission on both its timely recognition of the need for such criteria—

And the "criteria" referred to is the commission's proposed thermal pollution criteria—

> and its solicitation of public opinion on them. These criteria seem to provide a good framework for regulating thermal discharges in ways that will avoid serious damage to aquatic environments, without excessively restricting the producers of heated effluents in most situations.

Then the professor goes on to make a couple of recommendations for changes in those criteria, and then he says:

> In combination with the presently proposed 3-degree, 300-foot criterion, these should effectively safeguard New York's deep stratified lakes from thermal damage.

This clearly indicates New York is moving to strengthen, not weaken, its control standards against thermal pollution, even though the ultimate decisions have yet to be made.

The CHAIRMAN. The time of the gentleman from New York has expired.

The gentleman from Michigan (Mr. DINGELL) is recognized.

Mr. DINGELL. Mr. Chairman, I yield back my time.

The CHAIRMAN. The gentleman from New York (Mr. OTTINGER) is recognized.

Mr. OTTINGER. Mr. Chairman, I yield back my time.

The CHAIRMAN. The gentleman from New York (Mr. STRATTON) is recognized.

Mr. STRATTON. Mr. Chairman, let me just indicate that this amendment is a very simple test of whether we are really interested in doing something about thermal pollution. We could talk about the philosophy of Federal versus State standards, but the fact of the matter is the only effective work that has been done, has been done by the Federal Water Pollution Control Administration. The only real concern has been expressed by the Department of the Interior.

If we give the job of certifying to these agencies, we can prevent this menace of thermal pollution before it gets under way. If we do not, it clearly is going to be eroded in New York, in spite of what the gentleman from New York (Mr. ROBISON) says. The word around Albany is that the tough bill that went through the assembly is not going to get through the senate, and if it does, the Governor is going to veto it, because they are more interested in building nuclear powerplants than they are in protecting our small recreational lakes.

If this happens to Cayuga Lake, and if Cayuga Lake goes the way of Lake Erie—I am surprised the gentleman who fought so hard to end pollution on Lake Erie is not on my side on this question—then many other lakes are going the way of Lake Erie and we are doing permanent damage to the recreational environment of America.

The CHAIRMAN, The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, the important fact of this total argument is being completely overlooked; that is the States must establish water quality standards and they must be approved by the Secretary of the Interior.

After all the scientists and engineers and qualified experts in the Department of the Interior review these standards, if they find they are not acceptable or do not meet the water quality standards that should be established in that area, then they make recommendations to the States to upgrade these water quality standards. Certainly, with all the know-how in the Department of the Interior, they are not going to permit the State of New York to permit thermal pollution if it can be avoided.

The argument that the State is going to turn its back on the people of New York and allow a company to pollute Cayuga Lake, I believe, is a fallacious one. Certainly the Department of the Interior will not do it should the State decide to do it.

Assuming that the gentlemen are correct, that there is a hearing going on now—I am not aware of this, but assuming there is a hearing going on—to modify the State standards, already acceptable, these modifications must in turn be approved by the Department of the Interior, by the Secretary of the Interior. He is not going to permit any thermal pollution of this lake. But to the contrary assure that they meet acceptable water quality requirements.

As an added fact let me point out to the committee that the company constructing the utility in this area has voluntarily stopped construction until this whole question of thermal pollution can be more adequately studied. I believe there is adequate time here to make this determination before we would see any pollution of Lake Cayuga. I urge the defeat of the amendment.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was rejected.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

I take this time in order to yield to the gentleman from Texas (Mr. ECKHARDT), so as to get a clarification of the meaning of language in one of the definitions.

Mr. ECKHARDT. Mr. Chairman, I should like to ask this question, of a knowledgeable member of the committee.

First I should like to recognize the committee's excellent work on this bill, which seems to me a broad and intelligent approach to the questions involved.

There is one area in this bill which touches my area closely, and I believe also may affect other portions of the country.

The report, on page 2, under the heading "Oil Pollution," deals with oil and matter, and refers to some 200 substances which conceivably the Secretary of the Interior might define as substances in which prevention of pollution could apply.

The point I wanted to be clear about is that these substances, under the definition of "matter" on page 38 of the bill, would include such things as very fine washings, for instance, from a dredge producing shell as an industrial product. I wanted to be sure that the term "dredged spoil" which is exempted from the term "matter" did not exempt this type of substance.

Subsection 2 says:

"Matter" means any substance of any description or origin, other than oil—

And then the words "dredged spoil" are used.

So "dredged spoil" would be excluded from the definition of matter. However, Webster's Third International Dictionary defines "to dredge" as "to deepen with a dredging machine: excavate with a dredge." It defines "spoil" as "a material (as refuse, earth, and rock) excavated usually in mining, dredging, or excavating," and gives the example of an artificial island built with spoil from dredging operations. I assume that the term "dredged spoil" would mean that spoil which is removed from a dredge cut, as where a channel is being deepened, and then the spoil is moved to a spoil island or dump in whole, as a waste product, rather than something which might be washed overboard from what really amounts to a floating manufacturing plant.

Mr. WRIGHT. Mr. Chairman, I think if the gentleman would accept my response, that the gentleman from Texas and the author of the Webster's dictionary and the committee are all in agreement. I think we intend to include in our use of the term "dredged spoil" precisely what the gentleman assumes we intend to include; that is, material moved from one place to another for the purpose of creating a navigation channel or for other such purposes that may require the removal of earth from one place to another. I would not believe, and I do not think the committee would believe, that the type of operation which the gentleman describes as a floating factory and the refuse that is spewed out from that kind of an operation would be exempted under the term "dredged spoil." I do not believe that that type of activity would be summarily exempted as dredged spoil. The extent that the

refuse from such an operation would be prohibited as "matter" defined by the Secretary would be, of course, up to the Secretary to determine. However, I think it is clear that such refuse from such a manufacturing operation could be included by the Secretary in his listing of hazardous and harmful matter and would not be summarily exempted from such a listing under the guise of its being dredged spoil.

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: On page 75, after line 24, insert the following:

"SEC. 4. Section 12 of the Federal Water Pollution Control Act, as amended, is amended by adding at the end thereof the following:

" '(f) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to industrial firms and to political subdivisions of States which demonstrate excellence in their waste treatment and pollution abatement programs. The Secretary shall, in consultation with the appropriate State water pollution control agency, establish regulations under which such recognition may be granted.

" '(A) The Secretary shall award a certificate or certificates and a flag or flags of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established by this subsection.

" '(B) 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 Secretary, and the awarding of such recognition shall be published in the Federal Register.

" '(C) Beginning on the day following the awarding of such recognition, the recipient industry or political subdivision is authorized to display publicly the flag and certificate, including the display of the flag insignia and the receipt of recognition as part of advertising and other material which is publicly distributed or broadcast.' "

And renumber succeeding sections and references thereto accordingly.

Mr. HORTON. Mr. Chairman, my amendment to H.R. 4148 provides for a program of Federal recognition awards to private industry and local government which demonstrate excellence in the fight against pollution of our waterways.

Every once in a while it is refreshing for the Federal Government to help solve a pressing national problem with a program which does not cost millions of dollars to launch, and which is relatively free of bureaucratic redtape.

In the summer of 1966, the National Resources and Power Subcommittee of the Committee on Government Operations, chaired by our able colleague, Congressman ROBERT JONES of Alabama, held hearings on pollution problems in Monroe and Wayne Counties in the State of New York. It was during these hearings in Wayne County that a constituent of mine, County Clerk Leonard Schlee, called me aside and made the suggestion that an effective way to encourage private initiative in improving waste treatment and eliminating pollution would be to institute a nationally publicized "clean water" award, similar to the "E" awards given to defense plants during World War II. This award would be given by the Federal Government to industries which took exemplary initiative in solving pollution problems, through improvement of waste treatment methods, or through installation of modern waste treatment facilities meeting the stringent standards of the award.

Upon returning from those hearings almost 3 years ago, I submitted legislation which authorized the Secretary of the Interior to grant such awards to private companies and local governments.

Since that time, the problems of pollution in this Nation have, despite great effort on many fronts, grown worse. The Federal Government, because of huge budget commitments to the war and to other domestic needs, has not been able to supply enough antipollution dollars, nor even all of the funds Congress has authorized to help State and local governments attack pollution. We have not yet been able to act on a plan of tax incentives for industries which invest in antipollution facilities.

I believe that a nationally publicized and carefully administered program of Federal "Clean Water" awards could provide some of the needed incentive to get industry and local government to respond positively to the sorry state of too many of our lakes, rivers, and streams. My amendment springs from the idea that one of the foundations of private initiative is the desire for public recognition and community approval. Business recognizes the importance of public good will as a necessity for building markets and for obtaining and retaining competent management and employees. Eastman Kodak Co., in Rochester, has demonstrated its awareness of the importance of this factor. This firm, which is in the process of building a modern secondary treatment plant for its chemical and industrial wastes, has publicly contracted with a little goldfish, to test the purity of its treated effluent—using the health of this lively creature as testimony to the company's efforts to eliminate water pollution.

A program of "clean water" awards would provide a double incentive, at very little cost to the Government. It would serve to encourage companies and localities which have taken very little initiative in cleaning up their wastes to get on the stick and do their part to attack this problem. It would also serve to publicly recognize those cities and towns and industrial firms which have already expended millions of dollars to provide truly exemplary waste treatment facilities, or to develop needed improvements in waste treatment techniques.

Mr. Chairman, I think this amendment would sharply focus on the high priority that our Government gives to correcting the pollution of our environment. Even at a time when the truly massive appropriations necessary to lick the pollution problem are beyond our reach, a well-administered and well-publicized program of awards for excellence in pollution control would stimulate the conscience of America, and I believe, would help to stimulate action on the part of both public and private organizations to do their part in this fight.

I urge each of my colleagues to support this measure.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I shall be glad to yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, I know of no one who has served with more diligence and who has gained more knowledge in water resource development than the distinguished gentleman from New York (Mr. HORTON), who has just offered this amendment.

It is my opinion that the amendment is one that is of great value. It could be utilized by industries which are making a great effort to meet the problem of water pollution and to increase the quality of water from which withdrawals are made. Therefore I believe the gentleman's amendment would grant recognition to these vast industrial efforts, and for that reason they would play a much greater role in seeking an answer to the solution of a major public endeavor, and that is to clean up the waters of our country. Consequently, I hope that the Committee will accept the amendment, because I feel it has great value.

Mr. HORTON. I certainly thank the distinguished gentleman from Alabama (Mr. JONES). It was a real pleasure to work with the gentleman on the Natural Resources and Power Subcommittee of the Committee on Public Works. I am sure that through the efforts of that subcommittee and the hearings which we held throughout the country, we did much to bring to the attention of the American people the work that is being done by private industry, and by many local governments, to abate pollution. We found little public recognition for vast expenditures by private industries and for great courage by local elected officials to institute expensive local programs to solve pollution problems.

A program such as proposed here

would give some Federal recognition which would not be in terms of any monetary value, but an award which would represent recognition on the part of the Federal Government for outstanding anti-pollution programs which in my opinion would certainly be warranted and advisable.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding. I believe the gentleman has a good idea here Because this amendment was not read in full, we have no understanding of the limitation that would be imposed upon this award. I am more than satisfied that the gentleman from New York contends that the award would be made only to persons who are deserving, industries, municipalities, and others who have done something in terms of cleaning up our streams, and would not be something that would be handed out merely at the whim or caprice on the part of someone, or without due consideration to the efforts which have been made by the parties involved.

Mr. HORTON. I did terminate the reading of the amendment. However, I

[p. 9276]

have sent a copy of this amendment around to all Members There would be no caprice or whim in the selection of industries, businesses, or governments to receive these awards. The essential part of the amendment reads as follows:

(f) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to industrial firms and to political subdivisions of States which demonstrate excellence in their waste treatments and pollution abatement programs The Secretary shall in consultation with the appropriate State water pollution control agency establish regulations under which such recognition may be granted

Thus, regulations would be required on which to base recognition and granting of awards.

Then it goes on to point out that certificates shall be awarded and that the people, the industry or the municipality——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. BLATNIK. Mr. Chairman, in order to conserve further discussion on the point raised by the gentleman from Michigan, and on the amendment itself, the committee does accept the amendment.

I would like to have the RECORD show that the author of the amendment made a very impressive and persuasive presentation before the committee. He had an amendment that showed a great deal of consideration had been given to it. It was reviewed by the staff, both the majority and the minority participating, and suggestions and modifications were made to it.

We do accept the amendment submitted by the gentleman from New York.

Mr. HORTON. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK Mr Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr VANIK On page 78, after line 17, insert the following

"SEC 6 (a) The Congress hereby finds and declares—

"(1) that because certain waters of the Nation which have been subject to increasing pollution over the years may become environmental disaster areas in which the water of the region is in immediate danger of becoming unsuitable or possibly harmful to the population of the area Therefore, Congress resolves by this section to provide an emergency fund to provide permanent corrective relief for those areas of the Nation which are in environmental crises

"(b) As used in this section—

"(1) The term 'Commission' means the Pollution Disaster Commission authorized by subsection (c) of this section.

"(2) The term 'pollution disaster area' means any area of the United States, the Continental Shelf, or the Great Lakes, in which the water has become or is in danger of becoming unsuitable or harmful for the uses to which it has been traditionally used in that area because of the accumulation of pollutants or other induced changes in the environment and ecology.

"(3) The term 'fund' means the Pollution Disaster Fund authorized by subsection (d) of this section.

"(4) The term 'waste treatment works' means the various devices used in the treatment of sewage or industrial wastes of a liquid nature, including the necessary interceptor, outfall, storm, lateral, collector, sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof.

"(5) The term 'Secretary' means the Secretary of the Interior.

"(6) The term 'person' means any individual, corporation, company, association, firm, partnership, society, and joint stock company.

"(c) (1) There is hereby established a commission to be known as the Pollution Disaster Commission.

"(2) It shall be the duty of the Commission to establish those areas in the United States, the Continental Shelf, and the Great Lakes which are pollution disaster areas for the purposes of this section.

"(3) The Commission shall be composed of seven members appointed by the President by and with the advice and consent of the Senate, four of whom shall be recognized experts in the fields of biology, ecology, and conservation and the remainder of whom shall be representatives of the general public. No member of the Commission shall be a full-time officer or employee of the United States

"(4) Members shall serve at the pleasure of the President.

"(5) Members of the Commission shall each be entitled to receive $100 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission.

"(6) While away from their homes or regular places of business in the performance of services for the commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(7) Four members of the Commission shall constitute a quorum.

"(8) The Chairman and Vice Chairman of the Commission shall be elected by the members of the Commission.

"(9) The Commission may appoint and fix the compensation of such personnel as it deems advisable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(10) The Commission may for the purposes of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

"(d) There is hereby established in the Treasury of the United States a fund to be known as the "Pollution Disaster Fund." There is hereby authorized to be appropriated such funds as may be necessary to initially establish the fund at $100,000,000 and to replenish it thereafter to maintain it at such amount. The Secretary, acting through the Federal Water Pollution Control Administration, is authorized to expend moneys from the fund in accordance with subsection (e) of this section.

"(e) (1) Whenever, in carrying out its duties under subsection (c), the Commission determines that an area of the United States, the Continental Shelf, or the Great Lakes, is a pollution disaster area, and of such dimension that solutions are beyond the capability of any single individual state, the Commission shall notify the Secretary of such determination and the Secretary is authorized to take such action as may be necessary in the case of a pollution disaster area, to provide permanent corrective relief for the pollution disaster area as authorized in paragraph (2) of this subsection.

"(2) In the case of an area declared to be a pollution disaster area, the Secretary is authorized to make grants from the fund to any State and to any political subdivision of such State, and to any interstate agency created by such State and one or more other States, for any activity designed to provide permanent corrective relief to such area, including, but not limited to, the construction of waste treatment works within the pollution disaster area. A grant for construction of waste treatment works shall not exceed 90 per cent of the reasonable cost of such construction. The Secretary is also authorized to purchase evidences of indebtedness and to make loans (including participations in loans), and to guarantee loans, from the fund to aid in financing any projects by private persons for the construction of any waste treatment facility or any other related facility. Financial assistance authorized by this paragraph shall be on such terms and conditions as the Secretary determines are

necessary to protect the interests of the United States and carry out the purposes of this section Loans and guarantees under this paragraph shall be at low rates of interest as determined by the Secretary

"(3) The Secretary shall, in any case where there is more than one pollution disaster area requesting assistance under this section, give priority to those areas containing the highest concentrations of population and having economies dependent upon the threatened natural resources, and to those areas where the polluted waters are interstate waters or waters along the boundary between this country and Canada, and between this country and Mexico "

Mr. VANIK (during the reading). Mr. chairman, I ask unanimous consent that the amendment be considered as having been read.

I have sent copies of the amendment to both sides of the committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VANIK. Mr. Chairman, this amendment before the committee at the present time provides for the establishment of national pollution disaster areas, and for this purpose I have requested an appropriation of $100 million which will be directed toward the really massive pollution problems of the United States.

Mr. Chairman. I have always supported pollution proposals which were authorized or which were brought to the Congress by this committee. In my period of time as a Member of the Congress I have joined in authorizing and sponsoring and in supporting over three billion dollars in water pollution control legislation, of which $1.5 billion has been appropriated.

Today, after the expenditure of this kind of money, we along the shores of Lake Erie find ourselves in a situation which is worse than it was when we first started these programs. It is said that Lake Erie is a dead body of water. And we do have a body of water which is deteriorating so rapidly that it has indeed become the Nation's greatest pollution disaster area.

[p. 9277]

We are likely to become the Nation's first manmade depressed area, because of the pollution problem. There are other parts of America that have a comparable problem. There is a problem in northern New Jersey, and southern New York, along the Hudson River. We have the problem that occurs along southern Lake Michigan, along stretches of the Mississippi River, and along the coast of California.

I believe that it is time that we should consider approaching the problem of pollution on a regional basis, in a massive way, to meet these problems

For example, in Lake Michigan we find that out of $51 million that was allocated to Illinois from Federal funds, only $12 7 million has gone to Cook County.

Detroit, which pours its waste into the Detroit River, which runs into Lake Erie—probably the largest single source of our pollution—out of $47 million allocated to the State of Michigan in the last 13 years only $8 million has been spent in Wayne County.

We have the same problem in Ohio. Although we have had almost $49 million provided in Federal funds, we find that these moneys have been scattered throughout the State in small but necessary projects, which help, but the great source of pollution, the great polluted area of Lake Erie, receives no consideration at all related to its need.

A great many other grants have been made which are really in the form of economic development. We find a lot of these resources being allocated by the several States, not to clear up existing pollution, but to provide for sanitary systems and sewage disposal systems, which make it possible for new industries to locate in these areas.

In testimony before the Committee on Public Works, the Assistant Director of the General Accounting Office indicated the use of U.S -financed waste treatment works for the sole treatment of private industrial wastes might become common.

So what we need is a task force ap-

proach—something that will be directed regionally to the area of need.

My legislation is directed toward that end. I think about Lake Erie. Some of my colleagues may think about disasters of those proportions that affect their communities. But I say that our Lake Erie problem is international. It is interstate. It is completely beyond the capacity of any single State to solve. Therefore, it is a national problem. It requires a special approach which is not available under existing law.

I cannot just stand by and see Lake Erie and the Lake Erie problem overlooked. I cannot give up on Lake Erie. I feel that we ought to perform a transplant to bring back life, to the lake instead of trying to perform an autopsy on something that is dead and gone.

I have not given up hope on Lake Erie and I plead with my colleagues in the House of Representatives and on this Committee to provide the help that is needed on this most critical problem.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to my distinguished colleague, the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, I congratulate the gentleman on his amendment and I certainly would like to support him.

I think the gentleman is giving the House an opportunity in this bill to deal with the specific isolated problems of greatest need. The whole approach of specifying disaster areas and moving in with assistance is not new. We do it under the Economic Development Act and we do it with various other procedures.

The gentleman is proposing the machinery that would permit the Federal Government to move in with substantial resources when a problem starts to develop which could become an ultimate disaster.

The bill we have before us provides aid across the board to all communities and deals with a broad stroke in dealing with the problem.

What the gentleman is proposing here makes a great deal of sense and there are certain potentials for great disaster in this country affected by pollution.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. VANIK asked and was given permission to proceed for 5 additional minutes.)

Mr. PUCINSKI. There is no greater problem right now than Lake Erie. So it seems to me that we should recall the wise words of perhaps one of the most expert Members of the Congress in this field, the gentleman from Minnesota, who yesterday said:

> Some scientists have suggested as Mr. WRIGHT said, that it may already be, in a sense, a dead lake, in that unless massive measures are undertaken immediately, the problem may be almost irreversible.

Then he said:

> Not only $100 million but several hundreds of millions of dollars will be required in order to clean out and to reverse the situation existing in Lake Erie so as to restore it to an acceptable level of quality and maintain it in accordance with the standards in existence now.

Certainly, we have here a situation where it will take millions upon millions of dollars to restore Lake Erie. If there had been available an apparatus such as the gentleman is now proposing in this amendment 5 years ago or 10 years ago, Lake Erie would not be the disaster area that it is today.

So for that reason, I will support the amendment.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman.

Mr. BLATNIK. I want it to be clear that if it were not for the negligence of the States bordering on the lake in the first place at anytime in the last 50 years, they could have stopped the pollution and we would not have that problem on the floor of the House here today before us. I want the record to show that. It was not because of any neglect or delay on the part of this body.

Mr. PUCINSKI. I would not quarrel with the gentleman's statement in that regard. He is an expert in this field and I respect his good judgment. But the fact remains that what the gentleman is proposing is the creation of an agency or an apparatus that would be able to deal effectively with these problems, these huge problems that often go beyond the scope of the legislation now before us.

I think it makes a great deal of sense This is the way to approach the problem. The gentleman has said, "Let us set up a fund of $100 million so we can move in and deal effectively before it spreads and affects the whole community." For that reason, I think it is an imaginative amendment. It would be my hope that the Committee would accept it.

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my colleague from Ohio.

Mr. FEIGHAN. I wish to commend my colleague for his foresight in bringing forth this amendment. It is my hope it will be adopted. I think it is patently clear to everyone that Lake Erie is just one of many unfortunate situations that exist in the Nation with reference to the pollution of rivers, lakes, and recreational areas. As an example, Cleveland, Ohio, voted a $100 million bond issue for air- and water-pollution control It seems to me absolutely necessary that this Congress cooperate with the citizens of our country, not only those bordering on Lake Erie, or other great lakes, and offer them an opportunity to match funds in some manner or other to clear up this pollution which, in the case of Lake Erie, is creating almost a dead lake.

I certainly urge adoption of the amendment I understand there have been considerations of other methods by which this serious condition may be met and eliminated. I would rather have this amendment accepted than to try to wait for other crash programs later.

Mr. Chairman, the creation of a national pollution disaster fund, will provide a much needed stimulus to the water quality of the Great Lakes and other national waterways.

This amendment will authorize an appropriation of $100 million for the establishment of a pollution disaster fund within the Treasury Department. To channel these moneys into needy areas, a seven-man Pollution Disaster Commission will be created. Four of its members shall be acknowledged experts in the fields of biology, ecology, and conservation and the remaining three persons will be representatives of the general public. All members will be appointed by the President with the consent of the Senate and will have as their task, the allocating of Federal funds to areas of the United States, Great Lakes and the Continental Shelf which have been subject to increasing pollution and whose waters are in imminent danger of becoming unsuitable or harmful to the population.

These areas will be designated as environmental disaster areas and as such will be eligible for Federal aid through the pollution disaster fund, to take whatever action necessary to correct the inadequate and substandard condition of their waters

Ninety percent matching grants will

[p. 9278]

be made by the Secretary of the Treasury in coordination with the Federal Water Pollution Control Administration, to any State or political subdivision for any activity designed to provide permanent corrective relief to the disaster area, including the construction of appropriate waste treatment works

The amendment also authorizes the Secretary to make and guarantee loans to any individual, association, or company for the construction of any waste treatment facility.

This amendment is offered in direct response to the rapidly deteriorating conditions of our Nation's waterways. Waters such as Lake Erie, where people at one time could freely enjoy the pleas-

ures it offered, but now the water is contaminated to such an extent that it is no longer a center for recreational activity. People have been forced to consider the harmful effects the impure waters have on their health and well-being. Plant and animal life have suffered untold damage because of the inferior quality of such waters.

In Cleveland, where the voters recently approved a $100 million antipollution bond issue, this amendment will demonstrate that the Federal Government shares their commitment to clean water and is anxious to provide them with the much-needed assistance in getting the job done. Similar areas throughout the country will benefit from this amendment and I urge my colleagues who share our commitment to clean water, to join in support of this amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield such time as he may desire to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman. I congratulate the gentleman from Ohio for bringing this amendment to the floor of the House.

I note that yesterday the gentleman from Ohio (Mr. VANIK), asked if any other water pollution problem in the Nation matched that of Lake Erie. I for one hate to brag—at least in the area of claiming the most polluted body of water in the Nation—but I must confess I believe San Francisco Bay matches, if not exceeds Lake Erie in the complexities of the pollution. We have sewage and industrial wastes of all types pouring into the bay at a rate now exceeding that of the fresh water flow in major portions of the bay. At the same time the Federal Government and the State of California are further cutting the fresh water flows into the bay while building additional pollution pipelines to the bay.

If San Francisco Bay is not now an environmental disaster area, it soon will be. We too need far more help than is offered in this bill, and we need it now. In the future I would hope to brag about the beauties of San Francisco Bay, not its problems, and my contests with the gentleman from Ohio will be in comparing the delights of Lake Erie with those of my bay. I believe I will win hands down.

Mr. STOKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to join my colleagues in supporting the amendment to H.R. 4148 which would establish a special $100 million fund to be used to combat pollution in areas which have become, in every sense of the word, natural disaster areas. I have joined with 28 other Members of this Chamber in sponsoring, as separate legislation, a bill to provide relief for pollution disaster areas. It is my hope that that bill will be accepted as an amendment to the legislation before the House today.

The congressional district which I represent touches on the waters of Lake Erie—the lake which has, as members of the distinguished House Public Works Committee have said, a pollution problem unmatched in the Nation. The Cuyahoga River, one of the major tributaries of Lake Erie, flows through my congressional district in the city of Cleveland. This river is so polluted and so covered with chemicals and oils that it periodically catches fire. It has been called "the only body of water ever classified as a fire hazard." Because of unavoidable age and overloading, the city of Cleveland's sewer system has suffered several recent breaks. For half a year in 1967 and during the last half of 1968, 30 million gallons of raw sewage a day flowed into the Cuyahoga River while sewer lines were under repair. Is it any surprise that the coliform count at the point where the river enters Lake Erie is 1,200 times the bacteria level allowed for safe swimming? Not only is the river totally unsafe for humans, but it is unable to support any form of marine or aquatic life.

The voters of the Cleveland area have

just approved a massive $100 million bond issue to be used in Cleveland's anti-pollution crusade.

Yet the problem of Lake Erie, and even of the Cuyahoga River, is too big for a single community to solve. The major source of Lake Erie pollution is, as a matter of fact, the Detroit River. Obviously, help from the Federal Government is needed in problems as large as that of the interstate and international waters of Lake Erie.

But the legislation before us, H.R. 4148, does nothing to help solve the critical pollution problems of areas like Lake Erie, the Hudson River, San Francisco Bay, and lower Lake Michigan. During yesterday's debate on this bill, it was pointed out by members of the committee that the bill does not provide for a broad assault on the existing pollution in lakes such as Lake Erie.

The amendment offered by my colleague from Ohio (Mr. VANIK), and which I am supporting, does offer hope to areas like Lake Erie which have become pollution disaster areas. The amendment will provide that once a water area has been determined by a commission composed of conservationists and ecologists to be in severe ecological danger, to be so polluted that it is unusable and a danger to health, grants and loans from a $100 million fund will be available to communities and residents of the area for assistance in constructing pollution control devices

Only a concentrated attack, such as this amendment provides, can save for ourselves and our children these bodies of water, our most precious natural resources.

I urge support for this amendment.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

Surely every member of the Committee is fully sympathetic with what the gentleman from Ohio desires to do He appeared before our committee and discussed his proposal in eloquent detail Certainly Lake Erie is the most advanced case, among the other great lakes, of the debilitation of a great body of water. Certainly a massive assault should be made upon the pollution of this great natural resource.

I refer the gentleman to some lines I wrote back in 1965. I wrote a book that was published in which I pointed out:

> Lake Erie is not only blighted by municipal and industrial waste from those communities which border its shrinking shore line, but it is also defiled by more than 20 grossly polluted streams. One of them, the Cuyahoga River, was recently found to contain 4 times the bacteria count expected in a stream of raw sewage.

So, as the gentleman can see, I have been actively concerned about this problem for years.

I simply raise this question: Sympathetic as all of us are, desirous as all of us on the committee and hopefully in the entire Congress are to make the assault necessary to clean up this great body of water and the other great lakes, I wonder if the gentleman has any thought that the Congress in the present budgetary situation is going to be able to appropriate $100 million more, as he asks?

Four years ago we approved a massive program to assault pollution on all streams and all bodies of water in the United States. It was the boldest, bravest, most forward-looking program that ever had been offered in this field. It passed this House and the other body unanimously. There was not one single vote against it.

That bill authorized this kind of escalation in expenditures: $450 million for 1968, $700 million for 1969, $1 billion for fiscal year 1970. That is already authorized. We passed that authorization without a dissenting vote in either House.

But what have we done? Have we made that money available? No, we have not. In 1968 we made less than half the $450 million authorized available. We made $203 million available by appropriation. In 1969 we made less than one-third the $700 million available. We appropriated $214 million.

For 1970 the administration recommends that we again appropriate $214 million. This is less than one-fourth the amount this Congress authorized, unanimously, for fiscal 1970.

If the gentleman from Ohio wants to put on the books a suggestion that we will authorize for the Great Lakes another $100 million in addition to this $1 billion we already have authorized for the whole Nation including those streams that flow into the Great Lakes, then, fine, we could do that. But, my friends, would it not be meaningless when we cannot get Congress to appro-

[p. 9279]

priate more than $214 million for the whole Nation, for every community beset by pollution, for every stream that is defiled?

What good is an authorization without an appropriation? A total of $214 million for the whole program—that is all we appropriated last year and that is all we are being asked to appropriate this year. That much for the whole Nation. I think it would be a cruel deception to pass a bill that would say we are going to put up $100 million for this additional purpose and then not do it.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, the testimony before the committee was that it would take us 92 years to bring water quality up to the established standards that we expected in all the bills we have passed. So we are putting a disproportionate amount on a single project. The total aim of all this legislation is to make geographical distribution of the money so that all the streams may have some proportionate share.

I will say the gentleman from Texas nobody has done more than I and the subcommittee with which I have been associated as chairman to bring about improvement in and to draw public attention to the state of deterioration in Lake Erie and the other lakes, but I do not think it is necessary for us to take a disproportionate amount of the money and apply it to one single body of water and to the exclusion of the others. We all know, as we have pointed out, we will not be able to have sufficient money to do all the urgent tasks and studies that confront us to eliminate and arrest pollution throughout the country.

(Mr. MINSHALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MINSHALL. Mr. Chairman, I have listened for 2 days to the debate over amendments to the Federal Water Pollution Control Act. I shall, of course, vote for it, just as I have supported anti-pollution measures time after time in the past. I will dedicate every effort in my House Committee on Appropriations to see that every cent we authorize today is appropriated.

But, I am discouraged after all these years that the pollution of Lake Erie and funds to save the lake should still be a subject for debate. When all the sound and fury dies down, we who come from States bordering this most polluted body of water in the world still are given only a trickle of money to fight pollution in Erie.

In order to adequately express the emergency nature of the Lake Erie crisis, therefore, I have today written Governor Rhodes asking that he, in accordance with title 42, section 1855, of the United States Code, ask the President to declare Lake Erie a national disaster area. I also am advising the White House of my action and I would urge those of my colleagues from other States bordering Lake Erie to take similar action.

For the situation in Lake Erie is just that: a national disaster, as defined by law, just as real as if the area had been stricken by flood, tornado, or blizzard. Federal funds and forces are immediately mobilized when calamities such as these strike. The disaster of Lake Erie,

the decay which is inexorably leading to its death, has been gradual. Perhaps because its destruction has not been as quick or dramatic as a flash flood or forest fire that it has not captured the imagination or inspired the sympathetic indignation of a broad spectrum of Americans. But it is a disaster of the first magnitude jeopardizing the health and the jobs of millions of citizens who live and work on its borders. The lake is literally rotting away and taking with it priceless fishing and recreational areas. Erie's commercial fishermen are suffering severe financial losses, with their total catch down by more than 50 percent. Not a Clevelander who pours a glass of tap water but is reminded by its sickening discoloration of the contamination of the lake.

In 1967 I extended an invitation to then President Johnson to fly over Lake Erie to see for himself the tragic condition of that once beautiful body of water, where more than 4,000 square miles of Erie are absolutely dead, all life strangled by algae. I wanted him to see, too, the miles of beaches closed because the water is unsafe for swimmers.

I extend that invitation again to President Nixon or to those officials who he may designate to make the same flight over the lake, the same visit to the shoreline. I do not think they could fail but agree that this is, indeed, an exceptional pollution case, a national disaster.

My concern and sympathies are extended to my colleagues who argue that Lake Erie is but one of many polluted bodies of water in our Nation. I agree that pollution is a national problem, one of the greatest domestic issues confronting us. But I would suggest that they, too, might see for themselves the incredible conditions of Erie. I believe they, too, would be convinced that this is a special, a unique, case requiring national emergency action.

As regards the bill before us today, I would like to point out that I have both in this Congress and in the 90th Congress introduced legislation to curb dumping of dredging into Erie and other navigable waters by the Corps of Engineers. It is ironic that we hand out millions of dollars to combat water pollution on the one hand, the corps and other Federal agencies are among the major offenders in contribution to the pollution. I also would like to mention that in this and in the last Congress I also sponsored legislation of the type incorporated in today's bill to eliminate the type disaster witnessed in the *Torrey Canyon* incident in England. I am pleased that both pieces of legislation are incorporated and enlarged upon in H.R. 4148.

At this point in the RECORD I wish to include my letters to Governor Rhodes and to the President requesting that Lake Erie be declared a national disaster area:

APRIL 16, 1969.

Hon. JAMES A. RHODES,
Governor, State of Ohio,
Statehouse, Columbus, Ohio.

DEAR GOVERNOR RHODES: Inasmuch as the pollution of Lake Erie continues unabated, constituting a continued serious threat to the health, recreation and economy of the State of Ohio, and, inasmuch as the impact of the deterioration of the lake failed to impress the last Administration and now appears unlikely to receive sufficient support from the present Congress, I strongly urge you to ask President Nixon to declare Lake Erie a disaster area. In making this request, I cite the following Federal statute:

"Title 42, Section 1855, Declaration of Congressional Intent

"It is the intent of Congress to provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate suffering and damage resulting from major disasters, to repair essential public facilities in major disasters, and to foster the development of such State and local organizations and plans to cope with major disasters as may be necessary."

"Title 42, Section 1855a. Definitions.

"(a) 'Major disaster' means any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe in any part of the United States which, in the detemination of the President is, or threatens to be, of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments in

alleviating the damage, hardship, or suffering caused thereby, and respecting which the Governor of any State (or the Board of Commissioners of the District of Columbia) in which such a catastrophe may occur or threaten certifies the need for disaster assistance under this chapter, and shall give assurance of expenditure of a reasonable amount of the funds of the government of such State, local governments therein, or other agencies, for the same purposes with respect to such catastrophe."

I do not need to elaborate to you, who are so mindful and concerned regarding the crisis situation of Lake Erie, the paucity of funds granted under the last Administration for the fight against pollution to the State of Ohio. I am urging colleagues from other States bordering the lakes to call on their State Governors to take similar action, but I would of course be proud to see you in the lead.

I am certain you agree that conditions in Erie constitute a "national disaster" which has not been brought fully or dramatically to the attention of the Nation as a whole. Perhaps this will be the vehicle by which we can bring its plight to the public and enlist the aid of conservation and economy-minded citizens in saving Lake Erie.

A copy of this letter is being sent to President Nixon, along with an invitation to the President or any official he designates to join me in flying over the lake to survey the dead portions, to tour the beaches closed because of health hazards, and to discuss the problem in specific terms. This invitation is, of course, also extended to you.

With warm personal regards,

Sincerely yours,

WILLIAM E. MINSHALL,
Member of Congress.

APRIL 16, 1969.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Conditions in Lake Erie have reached such a critical point, and past Federal assistance to alleviate the pollution so sparse, that I have written to Governor James A. Rhodes urging him to ask you to declare Lake Erie a national disaster area.

As stated in my attached letter to the Governor, I feel that Lake Erie qualifies as a disaster area as defined under Title 42, Section 1885a(a).

Not only the economy of the states bordering the lake, but the health and recrea-

[p. 9280]

tional facilities of its millions of residents, are in the gravest jeopardy. I do not believe full realization of this threat has been brought home to most American citizens, despite the shocking fact that Lake Erie is conceded to be the most polluted body of water in the world. Its death would have an economic impact reaching much farther than the states sharing its shoreline.

It would be my pleasure to personally show you, from the air, the thousands of square miles of Erie which are absolutely dead, all life strangled by algae, and the thousands more miles under immediate threat. I invite you to inspect the deplorable condition of lake beaches, many closed because they are unsafe for swimming. And I call your attention to the severe financial losses suffered by the fishing industry, where the catch is down by 50 percent. It is not necessary to point out that the death of Lake Erie would be a virtual death-blow to lake transport as well as to local industry.

If it is not possible for you to make such an inspection trip, I respectfully request that you designate appropriate officials from the Departments of Health, Education and Welfare, Commerce, Interior and the Army to join me.

With highest regards,

Respectfully,

WILLIAM E. MINSHALL,
Member of Congress.

Mr. BLATNIK. Mr. Chairman, I rise in oppositon to the amendment.

Mr. Chairman, as was made abundantly clear, factually, and realistically by the gentleman from Texas (Mr. WRIGHT), and by our respected friend and colleague, the gentleman from Alabama (Mr. JONES), we are not only aware of, but quite knowledgeable about, and truly and earnestly sympathetic—and I mean sympathetic—with the plight and the problems existing particularly but not only with respect to Lake Erie, which problems are certainly enormous—monumental and complicated. We agree we should begin to work on this large and complex problem, but we cannot approach it on a scale as large as that proposed by the gentleman's amendment.

In fact, I urge this body to vote down the amendment, in a friendly and understanding manner, with the understanding that a subsequent modified version will be worked out by the gentleman and his colleagues from Ohio and members of the committee and staff, and

which will then be submitted to the House for consideration. I am confident that a proposal applicable to all the Great Lakes, and in line with the general provisions of the mine-acid pollution section is worked out, that we can agree to such an amendment and work on the Lake Erie problem can be gotten underway, as well as work on remedying pollution problems elsewhere on the Great Lakes.

I do urge that this amendment be defeated and that the gentleman from Ohio be recognized next to submit the modified amended version.

Mr. McCARTHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the Public Works Committee from a district on the shore of Lake Erie I feel compelled to speak on the amendment offered by the gentleman from Ohio.

I have cosponsored the bill which the gentleman from Ohio offered. And I am very hopeful that the committee, after this valuable debate, will seriously consider the gentleman's bill and hopefully will hold hearings, possibly on the shores of Lake Erie. I believe we need the bill.

In response to the gentleman from Alabama, while we certainly want to clean up all the streams in the country there are some pollution disaster areas Just as in the Appalachian approach we recognize there are depressed areas in the United States, so also there are acute disaster areas in terms of pollution.

We have a crisis here, a national crisis which really affects our viability and our future as a society, in terms of pollution.

I do not see how we are ever going to really deal with this program until we reorder our national priorities.

This committee has done a tremendous job, I believe, under the leadership of our distinguished chairman and the chairman of the subcommitte, the gentleman from Minnesota. We have brought excellent legislation to the floor and seen it passed. Today's bill is another major step forward.

As the gentleman from Texas said, a billion dollars has been authorized for next year for a nationwide attack on pollution, yet the Bureau of the Budget comes in with a recommendation for $214 million. That is about 20 percent.

We should contrast that by just taking one item from the budget for the Department of Defense, for germ and gas warfare, $350 million. Many items in the chemical and biological category we never even voted on knowingly. They are effectively buried in the Defense budget. Now contrast that $350 million with bills passed by the other body and by the House unanimously, to attack this crisis of water pollution, and we see how inverted are our priorities.

We do not have the money Where is the money going to come from? One way is somehow to come to grips with the gargantuan defense budget in an effort to realistically and prudently trim it back so that we have some resources to utilize in an an attack on these grave domestic problems.

I can assure the Members, coming from Buffalo, that this is a crisis. This is a major crisis. It affects the future of our area. The same is true for Detroit and Cleveland and all around the lakes. This is of major national importance. And we are putting "peanuts" into this program.

I do not believe, in fairness to the gentleman from Ohio, we can kid anybody and suggest we are going to pass any authorization, because the crunch comes in the Appropriations Committee.

Until we can muster the determination to reorder our national priorities we are not going to attack the problem of water pollution or any of the other urgent domestic problems.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. McCARTHY. I am happy to yield to the gentleman from Texas.

Mr. ROBERTS. I appreciate the gentleman's yielding.

I agree, certainly, with some reorientation of our priorities, but I believe we

have overlooked one thing.

When the distinguished gentleman from Ohio was before our committee he testified that the city of Cleveland had passed a $100 million bond issue to help clear up its own sewage problem, but that there were 25,800 able-bodied men on welfare. So let us reorient it and do a public works project, where we can let those people work for the city of Cleveland or somewhere else on a public works project, instead of passing out these grants.

I appreciate the gentleman's statement.

Mr. PRICE of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio (Mr. VANIK). It is identical to the bill that I and a number of others are cosponsoring with him. Our growing concern about the Nation's pollution crisis is the basis for this action, and it is our hope that the amendment will be adopted.

Ample evidence has been presented to show the need for the disaster pollution fund. The California oil leak disaster, still fresh in everyone's mind, and the increasing pollution of the Great Lakes, and the Mississippi River are prime examples of the need for emergency action. It should be noted, too, as the gentleman from Ohio has pointed out, that the pending amendment does not waive the polluter's liability; it merely makes available the needed funds to get the job done.

Some may argue that $100 million is too much money, that the budget cannot stand it. Well, I think it is time to reflect on what we want this country to be. If we can spend $80 billion a year on defense, we can certainly afford to authorize an additional $100 million to protect our air and water—the two essential ingredients for sustaining human life. It is an investment that will reap dividends far beyond the original cost. The quality of human life is at stake here, and it is ridiculous to put a ceiling or price tag on it.

One other point should be discussed. Last month in testimony before the House Public Works Committee the gentleman from Ohio brought out some very interesting statistics, indicating that an inordinate number of water pollution control grants were going to less populated areas. I have no argument with these areas receiving equitable amounts of Federal assistance, but I do object to the fact that our populated areas are shortchanged in the process Gentlemen, we live in an urban society; over 70 percent of our people live in urban areas. It would stand to reason that our populated areas must be served adequately and effectively.

The basic purpose of the amendment is just that. To protect and to reclaim our air and water so that our growing urban population can enjoy these vital resources.

Mr. WALDIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had intended to offer an amendment, but on discussing this with the members of the committee I have refrained from doing so.

[p. 9281]

However, I wish to call the attention of the Committee to a problem that I think has not been sufficiently dealt with in this particular measure under consideration. This is the problem of controlling the influx of salt water into fresh water bodies and particularly into estuarine systems.

The existing act already indicates the national intention to designate these waters as deserving and worthy of considerable protection, but there is nothing in the act which deals with the threat to an estuarine area jeopardized by the intrusion of salt water—an intrusion of salt water into an estuary means there is a major decrease of inflow of lifegiving fresh water into the estuary—there is nothing in this act which determines that that decrease of fresh water flow

into the estuary constitutes a pollution of the estuary and a lessening of the water quality in the estuarine system.

I can suggest to you that in San Francisco Bay, for example, where the proposal is to divert 80 percent of the only fresh water flow into San Francisco Bay and to divert it to other uses before it gets into the estuarine system, the problem will be not only a remarkable diminution in the beneficial aspects of the estuary, but the very great area of that estuary will be reduced to a minimal size because of the reduction of 80 percent of the fresh water inflow and the increase in the intrusion of salt water from San Francisco Bay into that system. This intrusion of salt water and reduction of fresh water, will practically destroy the existing estuary. In addition, the ability of the San Francisco Bay water system to dispose of the pollutants placed into that system will be remarkably diminished because of the decrease in the oxygen content in San Francisco Bay, which is a necessary factor in the reduction of wastes transported into water systems. The oxygen in San Francisco Bay is only found in the fresh water that flows into the bay, and if the oxygen is diminished further by a reduction of 80 percent of the present fresh water flow in the bay, then this means that you will diminish the ability of the water in the system to oxygenize the wastes transported into that system by a considerable amount. So you will add to the pollution by permitting salt water intrusions by reason of the diminution of the fresh water flows and their oxygen contents.

Mr. Chairman, I am suggesting considerable attention should be given to the possibility of requiring the respective States and not permitting them to, as is the case in the present act, but requiring them to adopt as a water quality standard a criteria that affects all of the estuarine systems within their particular borders as it involves salt water intrusion. This would not be a remarkably difficult thing for the State to do and would be consistent with the indication of Congress that the estuaries are deserving of protection in order to preserve the water quality of these bodies of water. It would also be consistent with our desire to preserve existing water quality and with our belief that pollution of existing water quality simply means a deterioration of existing water quality by active dumping into that water of pollutants or by an indirect action of depriving that water body of a fresh water flow into the system itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was rejected.

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: On page 65, strike all from line 21 through line 25 on page 72.

Mr. STEIGER of Wisconsin. Mr. Chairman, the gentlewoman from Oregon (Mrs. GREEN) raised with the committee some questions regarding this section of this legislation. The provision now before us which my amendment would strike is a provision which was incorporated in separate legislation and which the Committee on Public Works decided to make a part of this bill. Its major sponsor is my distinguished colleague and friend, the gentleman from Florida (Mr. CRAMER), and therefore, I have some hesitation about entering into this field at this time to raise some questions about what I recognize is a very critical need—how we train personnel, how we bring them into the antipollution treatment field, and how we bring in the quality and numbers of those who are to operate and man the sewage treatment plants which this country so desperately needs.

But, Mr. Chairman, this provision of

this bill would propose that over the next 3 years we authorize $62 million, and we are going to authorize it in such a way that, in my judgment at least, we are opening up serious questions as to the efficacy and the viability of a program of this kind without adequate safeguards which have been made applicable to other kinds of training programs which are available.

Mr. Chairman, the gentleman from Florida inserted in the RECORD yesterday at pages 9022–9023 a detailed analysis of the manpower requirements which would be involved in this program.

Let me suggest to the Members that in part that answers some of the questions which are raised by this amendment. There are two major problems with our present effort. One of them is the fact that we are not training enough people. The other is that we are not adequately inducing those in other fields to enter the water pollution field. Well, let me run through this.

First of all, FWPCA, according to this information, has already been awarded a grant of something like $1,032,000, a grant under the Manpower Development and Training Act for the training of waste treatment operators; that is, those in the waste treatment field who are now employed in waste treatment plants.

Second, it has entered the camps system which will for the first time, according to this information, make it possible to offer the opening for the training of those who are not currently employed as operators.

Third, there is no limitation that you have to train only those presently employed in this field.

Fourth, there is a rather significant program, one which represents several millions of dollars, called the new careers program which makes available the training of people for upgrading their skill in areas of public service. Clearly waste treatment operators would be, in my judgment at least, one of those fields that would be eligible for new careers funding. Therefore, I question whether or not the committee has determined whether that would be available to them.

Last, let me say—before I yield to the gentleman from Iowa, as I see him on his feet and shall be glad to yield to him shortly—I have some serious questions simply with reference to the language itself.

We are here making awards for scholarships. Are we to award them for waste treatment operators only but not to sanitation engineers?

Second, there is the question of the definition of "institution of higher education." Yet the report in the RECORD of yesterday clearly indicates that the major thrust will be in 2-year colleges for this type of training.

Third, we are making the grants available on a consistent basis with those for other comparable programs.

I am not quite sure what that is except that I am guessing, based on information available, that it is going to cost $1,000 per year for students at all levels, which is the amount used in calculating the total amount to be authorized.

In all of this I want to make it clear to all of the Members that I am concerned and recognize the need for the training of personnel for treatment plant operators. I doubt seriously that this is the method that ought to be used. It is for that reason that this amendment is offered, in order to perhaps get some clarification or find out if there are some facts which are not now available.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KYL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have an amendment at the desk which is exactly the same as that offered by the gentleman from Wisconsin. We are rapidly approaching a point at which our student-aid program in institutions of higher learning is categorized subject matter. It has been too much proliferated.

Mr. Chairman, the general education

funds available to our college students will be cut this year far below the point that I would like to have them cut.

In evidence of good faith, insofar as education generally is concerned, I would say that if this amendment offered by the gentleman from Wisconsin is adopted, I will then, when the general college aid program comes before us for debate, seek to add as much to that program as we take out of this one.

I doubt that this bill provides the way we should approach the problem of finding personnel. I rather believe that when the salaries for the positions about which we are talking here reach the point where they should be, commensurate with their importance, that we will have a suffi-

[p. 9282]

cient number of under-graduate and graduate students in training for those jobs.

Mr. Chairman, there is one further point. Categorical subject matter grants to college students in the past have not proved that they fulfill the purpose for which they were established

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman from Iowa, yielding to me. I certainly would join the gentleman from Iowa in urging that when we have the higher education programs before us, that we make provision for this. I believe it would make sense

I would join with the gentleman from Iowa in that approach.

Would the gentleman from Iowa be willing to perhaps join with me in suggesting that our problem is that the salary level may be less than a college-trained person may be interested in, so that the inducements in this bill are not guarantees that they are going to go into the field and stay there? Also that those who could go into this field are eligible now for work-study programs, for scholarship, and loan provisions, which are applicable to all college students, even those who are training in this field?

Mr. KYL. I would further state, Mr. Chairman, that in the State of Iowa, where we have more complete sewage treatment plants in our municipalities than in any other State of the Union, we have not had exceptional difficulty in finding qualified people to run those plants.

There is nothing magical about the operation of these plants any more than any other kind of industrial facility. It certainly does not take a specialized college education. That is not where this training ought to be placed. We do need more science students in the field of eutrophication and other allied fields connected with the business of antipollution, but when we get the salaries for those positions to the point they should be we are not going to have any trouble finding students to go into that field of education.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 7, noes 29.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment

The Clerk read as follows:

AMENDMENT OFFERED BY MR VANIK

On page 65, after line 20, insert the following:

"GREAT LAKES WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC 20 (a) The Secretary, in cooperation with other Federal agencies, is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency 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 demon-

strate 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 water pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the conditions—

"(1) that the State, political subdivision, interstate agency, or other public 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, personal property, or sevices, the value of which shall be detemined by the Secretary.

"(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."

And renumber succeeding sections and references thereto accordingly, including any other necessary technical amendments

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. VANIK) is recognized.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my distinguished chairman, the gentleman from Minnesota.

Mr. BLATNIK. Mr. Chairman, as I stated earlier after consultation with the author and several of his colleagues from Ohio and our own committee, we now have a modified version of his initial amendment which provides for a 20-year program of all Great Lakes water pollution control demonstration. This is consistent with other provisions in water pollution control legislation which treats the Great Lakes as an entity and it is very similar to the acid mine drainage proposition.

So we do accept the amendment and urge its adoption.

Mr. VANIK. Mr. Chairman, I would like to point out that the amendment I have submitted provides a $20 million authorization for Great Lakes demonstration projects to develop techniques and preliminary plans to remove polluted matters and abate new pollution. It is cosponsored by my distinguished colleagues, the gentlemen from Ohio (Mr. HARSHA) who is a member of this distinguished committee and Mr. FEIGHAN. I now yield to my colleague from Ohio.

Mr. HARSHA. Mr. Chairman, I certainly want to join the distinguished gentleman from Ohio in offering this amendment and in support of this effort.

Certainly the Great Lakes situation is one of dire need and demands special attention.

We do have in this bill provision for some demonstration projects in the lake area. But this is of such a severe nature and the need is so great, I think it merits pinpointing and placing additional emphasis on the dire situation in the Great Lakes area.

Mr. Chairman, the gentleman from Ohio appeared before our committee and gave very persuasive testimony of the needs of Lake Erie and other Great Lakes. He pointed out in succinct terms the unfortunate condition that exists there. He has discussed this grave problem on several occasions with me and other members of the committee, imploring the committee to take positive action to help alleviate this tragic situation that exists in Lake Erie. And it was through his leadership that we have devised this amendment.

I might add that Mr. FEIGHAN has likewise discussed this problem with me a number of times and has arranged meetings with interested industry in an effort to help resolve this pressing problem.

Mr. Chairman, I also would like to call to the attention of the Congress that Mr. MINSHALL from Ohio has likewise expressed deep concern over Lake Erie and requested the committee and me to assist him in finding solutions to the situation.

Lake Erie is a great natural resource and an avenue for extended commerce, as are all of our Great Lakes, and unless we take positive immediate action to preserve them we may lose them. I congratulate the gentleman from Ohio (Mr. VANIK) on his leadership and am happy to join him in cosponsoring this amendment. I urge the committee to adopt it.

Mr. FEIGHAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman, my distinguished colleague from Ohio.

Mr. FEIGHAN. Mr. Chairman, I wholeheartedly rise in support of the amendment which I cosponsored with the distinguished gentleman from Ohio (Mr. VANIK). The situation involving the Great Lakes, and particularly Lake Erie, has been one which has given me a great deal of concern over the last several years. I have consistently urged this distinguished committee which has reported this bill, the Committee on Public Works, do whatever is humanly possible to expedite action for the resolution of the problem affecting the Great Lakes. I appreciate all of their efforts to date and I also appreciate the fact that the amendment which is being proposed here which would authorize a sum of $20 million to be used to direct the Secretary of the Interior in cooperation with other Federal agencies and all State and local agencies to carry out meaningful demonstration projects for the elimination or control of pollution within the Great Lakes and the watersheds adjoining thereto will be accepted by the committee

I would hope that all those interested in resolving the problem involving five of the great natural wonders of the world will cooperate in this effort and that as these demonstration projects are worked out and point the way toward a final resolution in cleaning up the waters of the Great Lakes that this Congress will and it must, I believe, find the funds sufficient to fully accomplish that purpose in the immediate future.

Mr. DINGELL Mr. Chairman, I move to strike out the last word.

[p. 9283]

Mr. Chairman, I rise to direct the attention of my good friend, the gentleman from Minnesota (Mr. BLATNIK) to several points that I would like to discuss with him with regard to language appearing on page 74.

If I may have the attention of my good friend, I would like to raise some questions with regard to the points raised by our good friend, the gentleman from New York (Mr. STRATTON) in his recent colloquy.

I would not like the record of the debate on this particular proposal to indicate that there is no power here in the Federal Government and the State government under this legislation and under Public Law 660, as amended, for there to be adequate action where there is a proposed construction of a thermal releasing generating plant which will release thermal pollution into our waterways. I note particularly lines 7 through 11 on page 74, which deal with the question, and I note here that it states as follows:

> In any case where such standards have been promulgated by the Secretary 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 Secretary

My question to my good friend is as follows: Am I not fair in inferring that where a State has not acted to establish standards regarding thermal pollution, or where its water quality standards have not been submitted to the Secretary, or where they have not been approved by the Secretary because of failure to adequately cover the problem of thermal pollution, then the Secretary becomes the licensing agency, and in effect requires compliance with water quality standards not only by the person who would be constructing the plant but also by the other Federal agencies which would be authorizing some kind

of license for construction of either a thermal or a thermal-nuclear plant? Am I correct in my understanding?

Mr. BLATNIK. The gentleman is absolutely correct. We do agree with his interpretation of that language.

Mr. DINGELL. The point raised by my good friend from New York (Mr. STRATTON) has troubled me for some time. One of the things I have been interested in is the generating plant to which he alluded. I wonder if it will be possible for the Committee on Public Works to request the staff of that very fine committee, the very able staff, to go into this matter to ascertain whether the provisions of Public Law 660 regarding the establishment of water quality standards appropriate to preserve the quality of water are being adequately handled by the State of New York.

Mr. BLATNIK. We certainly shall. We assure the gentleman that we are well aware that thermal pollution is not only a serious problem, but it is growing in seriousness and magnitude year by year because the heavy demands for power are outpacing our control. I assure the gentleman and the gentleman from New York who presented the amendment that the staff will give us a full, detailed report on the status of thermal pollution abatement control in the State of New York and elsewhere, because this is an area that we want to get into and can get into.

Mr. DINGELL. The reason I have taken this time is that I have been particularly concerned with the situation to which my friend from New York alluded. I am satisfied that if the staff of the committee goes into this matter, we will have an adequate and proper report to assure that the situation to which our friend from New York alluded is being properly handled by all agencies concerned, both State and Federal. I thank my good friend from Minnesota

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was agreed to.

Mr. BLATNIK. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. KEITH) with the explanation for the record that we have unintentionally made things extremely difficult for him. He has had a commitment for the past 2 hours, so I am pleased to yield to the gentleman from Massachusetts.

Mr. KEITH. Mr. Chairman, I appreciate that consideration very much.

The CHAIRMAN. For what purpose does the gentleman from Massachusetts rise?

Mr. KEITH. Mr. Chairman, I rise to ask questions to establish some legislative history as to the purpose and meaning of the bill.

The CHAIRMAN. The gentleman is recognized.

Mr. KEITH. I note that in the bill the Secretary is given authority to establish ways and means of overcoming the problem of oil pollution. I notice further that $65 million is authorized, among other things, for research to determine how pollution may be avoided. I am concerned particularly with oil spills such as that which occurred off Santa Barbara. In July 1967, I filed a bill which would have established a marine sanctuaries concept. It would have authorized the Secretary of the Interior to study certain ocean areas and determine whether or not their best possible use might be fishing or perhaps even recreation rather than for oil exploration and exploitation.

Officials of the Department of Interior testified then that they did not have sufficient funds to study this so-called marine sanctuaries concept. So I ask, is the legislation before us sufficiently broad to permit the Secretary of Interior to study the relative merits of the alternative uses of marine areas which fall under Federal jurisdiction? Can the Secretary of Interior study specifically whether or not the ocean off Cape Cod would be more advantageously used for recreation rather than for oil exploration and exploitation? I might point out that Cape Cod and the Santa Barbara

channel have very much in common. My hope is that we can study the offshore area of Cape Cod and present the problem that exists now off the shore of Santa Barbara from ever occurring there. If I could, I would like to have the chairman comment on that.

Mr. BLATNIK. Mr. Chairman, we have discussed this problem with the gentleman. It is a very pertinent problem. It is pertinent to the legislation we have here.

While the language may not on the surface appear at first glance to cover the problem, on page 77, beginning with line 3, we deal not only with research work and studies and experiments and demonstrations as the Secretary may deem appropriate relative to the removal of oil, but also with the prevention—and we use that word. It certainly was the intent of the committee to give perhaps more latitude than the language itself may imply. Speaking for myself, after consulting with our general counsel, chief counsel of our committee, the answer would be "Yes." The intent is certainly there and we believe the language can be interpreted to cover the problem the gentleman raises.

Mr. KEITH. Mr Chairman, I have one additional question. Can the Secretary similarly study whether or not the Georges Bank area is more valuable for fishery purposes rather than oil exploration? In this case we have fishery resources versus oil rather than recreational purposes versus oil.

I would like the Secretary to study whether or not it is better for that purpose rather than oil exploration and exploitation.

Mr. BLATNIK. Mr Chairman, I yield to the ranking minority member on that.

Mr. CRAMER. Mr. Chairman, I am sorry it took so long to get to these questions, because they are important.

I think an important additional answer to the first question of the gentleman is that the Secretary of Interior does have jurisdiction to issue licenses for exploration. It is my opinion certainly he has the authority, prior to doing that, to determine whether in a given area it should be used for fishing or oil, and make whatever studies are necessary, such as the gentleman suggests, off the coast of his district, to determine whether that present fishing ground should be maintained as a fishing ground and therefore oil exploration licenses should not be granted That is a necessary condition precedent to granting any permit to exploit for oil purposes.

Mr. KEITH. Mr. Chairman, I thank the gentleman very much. Yesterday, he, the gentleman from Florida (Mr. CRAMER), very kindly commented on my foresight in regard to the Santa Barbara incident.

As I said earlier, I have been very much concerned about the whole question of oil pollution, particularly as it pertains to our coastal waters.

We first became concerned in my district some time ago after fishermen returning from their grounds reported that acres of dead fish had surfaced as a result of the seismic tests being used by oil exploration teams. Now, after the alarming tragedy off Santa Barbara, we are more concerned than ever as the prospect of oil rigs some day rising from the waters off Cape Cod continues to grow.

Mr. Chairman, as a result of the legislative history we have written here today, I will write to Secretary Hickel asking him to begin at once to study and protect the esthetic values of the Cape

[p. 9284]

Cod shoreline and the fisheries resources of Georges Bank.

May I mention in passing that fish conservation as related to this bill is also a problem. At this moment in the waters off Cape Cod, the problem is not only pollution, although the threat of it, of course, hangs over us constantly There is another perhaps even more serious: Fishermen's nets no longer bring up haddock as they did in the past.

Time magazine has made the crisis

clear in its issue this week:

In New England fishing states, the total share of the catch to local fishermen dropped from 93% to 35% in the last recorded five-year period Much of the reversal was due to those well-equipped, hungry Soviet fishermen, who, in 1964-65 virtually depleted the Georges Bank area of haddock in just one expedition.

And so, Mr. Chairman, clean water is not enough; we must also begin to manage our fisheries resources better.

Getting back to this legislation, there are some other aspects of the bill before us today on which I would like to comment.

I am glad to find that under H.R. 4148 the Coast Guard has been given the authority to deal with the whole pollution problem.

I know when I went to look at the *Ocean Eagle* disaster in Puerto Rico and I asked who was in charge of the cleanup operations, the port captain, a Coast Guard officer, looked around the room in which several interested parties were gathered and said, "Well, I suppose I am." This illustrates the lack of organization, the fuzzy areas of command which have existed until now and which this bill seeks to eliminate.

May I say further that section 18 is a good answer to the question of pollution from small boats. But I would like to emphasize that regulations and standards should not be written without lengthy consultation with the boating industry. The economic costs involved and the limits of available technology cannot be determined without consultation with those who know most about them—the boat manufacturers and owners.

And, too, these are people who are vitally interested in preserving marine ecology. After all, they are also fishermen who want clean water to fish in, sailors who want clean water to sail in, and occasion swimmers who want clean water to swim in.

Also, Mr. Chairman, section 20, calling for assistance to institutions of higher education in their efforts to study water quality, goes to the heart of what has been missing for some time—and ongoing supply of the most up-to-date information about pollution and its clean-up. I commend the committee for making certain that this provision was included.

There are some weaknesses in this legislation, of course, and I am sure that we can all name one or two of them. But on balance it is an excellent step toward a solution to what we all know is an extremely complicated problem—how to control the pollution of our natural environment.

In the future, let us hope that we can also consider farseeing conservation legislation. We cannot only react to crisis. We must also plan well ahead if we are to keep the possibility of a bright future before us. And so, Mr. Chairman, I want to join with my other colleagues in congratulating the committee for facing up to the serious matter of water quality control. It is something which has been crying for attention for years.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNGATE. In section 18(f), page 59, line 8, after the words "waters of such State", insert a period and strike the remainder of line 8, and line 9

Mr. HUNGATE. Mr. Chairman, I thank the distinguished committee and my colleagues for the consideration they have given this very important question.

I have an amendment offered on page 59. If the chairman and members of the committee will check this, it seems to me it reads a State may prohibit discharge of untreated sewage from a vessel in intrastate waters in a State only if discharges from all other sources are prohibited. This would mean, as I read this bill, and going back to page 57 and commencing on line 13, section (c)(1), that within 2 years or not earlier than December 31, 1971, new vessels will have to be equipped with machinery to treat

sewage that they discharge into the water. Existing vessels would have 5 years in which to perfect some sewage treatment program.

This means that for a period of 2 years on new vessels or 5 years on existing vessels raw sewage could be discharged from the vessels into intrastate waters.

As I understand it, sewage can be discharged raw; can be discharged after primary treatment, which is a little better; or can be discharged after secondary treatment, which is better still.

According to the way this bill now reads, as I read it, if there is a village or a hamlet or a city or a factory located along an intrastate stream or an intrastate lake which has the highest form of treatment, secondary treatment, one could not regulate vessels discharging untreated sewage into that intrastate lake or stream for a period of at least 2 years in the case of new vessels or 5 years in the case of existing vessels.

To me, to put a "period" there, to permit a State to prohibit this discharge of untreated sewage from a vessel within all or a part of the intrastate waters of the State would mean they could regulate that, whereas now they cannot do so unless they also eliminate any factories along the bank which have a high level of treatment, like secondary, or any small cities or villages that might have secondary treatment.

My amendment would permit a State to regulate the discharge of untreated sewage from a boat within this 2- or 5-year period to which I have alluded. Otherwise they would not be able to do so unless they excluded the discharge of all sewage into that stream even though it had secondary treatment.

This would raise the water quality standards, and I urge support for my amendment.

Mr. BLATNIK. Mr. Chairman, I rise in opposition to the amendment.

Again, I am sympathetic to and understanding of the intention of the gentleman, but the amendment would cause problems I know he does not want to cause. Frankly, it is not satisfactory.

Until the standards are set on the abatement of discharges and the discharge from vessels the States will have authority in this field. They will continue to have authority for 5 years for old vessels and 2 years for new vessels, even after the standards are established But once the standards are established it is essential that the Federal Government preempt the field. We would reserve some rights to municipalities, but it is necessary to preempt the field, first, to have effective enforcement of discharges or pollution control in these instances and, second, to have uniformity.

There are vessels which go from harbor to harbor, whether they are recreational or commercial vessels. If they have different circumstances and different rules in each harbor there will be a real hodgepodge and an unworkable situation. Frankly, it would be an unreasonable situation.

I do urge that the gentleman's amendment be defeated.

Mr. CRAMER Mr. Chairman, will the gentleman yield?

Mr. BLATNIK I am pleased to yield to the gentleman from Florida.

Mr. CRAMER I might say I agree with the gentleman's explanation, and I, too, oppose the amendment.

Mr. McEWEN Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I am pleased to yield to the gentleman from New York.

Mr McEWEN. I also agree with the gentleman's views.

I can say to my good friend from Missouri, the committee gave extremely careful attention to this subject. We heard from many representatives of the small boaters concerned about regulations among the States.

As I believe the gentleman from Minnesota pointed out, this will not take effect until after the regulations are established, so this is some time away. Then, a body of water that is protected from all other sources of pollution could be protected by the State.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr McEWEN. I am happy to yield.

Mr. HUNGATE. At that point, if there is a plant which has been there, let us say, 20 years, or a village which has been there 20 years, which has secondary treatment, the highest form of treatment, could they regulate the boats on the intrastate waters on the discharge of sewage they make without prohibiting that plant or that village from making any discharge into that intrastate water?

Mr. McEWEN. No. The gentleman is correct.

Mr. HUNGATE. To me the boatowner

[p. 9285]

is getting a better break. There will be plants and villages which have put in secondary treatment which will have to stop when this takes effect, also.

Mr. McEWEN. I would say to the gentleman that I think what the committee carefully considered was the amount and the seriousness of the pollution contributed by shoreside facilities and a relatively small amount of vessels, recognizing that if a State wanted to shut off all sources of pollution in a body of water, they would have to do the same with all vessels.

Mr. HUNGATE. Once again let me ask, they could not require everyone to have secondary treatment and treat the boatowner and the village to the same degree. If they will require any treatment of the boatowner, then they must prohibit the discharge of sewage from any other source as well.

Mr. McEWEN. I would say that the gentleman is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The amendment was rejected.

Mr. PEPPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the able gentleman from Texas, a member of the committee (Mr. WRIGHT), let me say first of all that I wish to commend the distinguished committee for bringing this measure to the floor of the House.

It so happens that I have at least 20 miles of beaches in my congressional district, most of which are occupied by hotels and motels. If the operator of a vessel were either willfully or negligently to drop oil from that vessel into the water and this oil would be pushed ashore by waves and winds, this could do a great deal of damage not only to the beaches but to the private institutions that operate along them. I wish it were possible for the bill to have covered damage to private property as well as to the beaches and the shorelines, but I do realize that you would have had problems in including such a provision in this bill.

I wish to direct the attention of the able gentleman to page 52, beginning on line 16, where it says:

> (i) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel or onshore facility or offshore facility under any provision of law fo damages to any publicly or privately owned property from a discharge of oil or matter or from the removal of any oil or matter

Am I correct in assuming that your able committee did not intend by that provision of this bill to impair, diminish, or enlarge in any way any private right that the public owner of a facility or the private owner of a property might have in order to recover damages under the general law other than by the provisions of this bill?

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. Yes.

Mr. WRIGHT. The gentleman is entirely correct. The purpose of this section cited by the gentleman from Florida is to protect the private right to recover damages exactly as it exists today. This bill—while it creates maximum liabilities and requires proof of financial responsibility on the part of vessels, of onshore and offshore facilities, in amounts adequate to reimburse the Government for any claim that the Government may be

required to undertake as a result of negligent or willful discharge—this bill does not seek to alter, modify, or change or diminish or enlarge in any respect the responsibilities that one individual or one firm may have under the law to some private individual damaged by his negligence.

Mr. PEPPER I thank the very able gentleman from Texas.

If he will allow me one other inquiry under another subject he mentioned, referring you to page 53, where it says that the owner of a vessel is required to maintain assets and—

> Shall establish and maintain under regulations to be prescribed from time to time by the appropriate delegate of the President, evidence of financial responsibility to meet the maximum potential liability to the United States which such vessel could be subjected under this section for willful or negligent discharges of oil or matter

Now may I ask the able gentleman from Texas this question: It is not, as I understand it, the intention of this distinguished committee to provide that these assets that you require to be made available and maintained by the owners of the vessels shall be subject only to a claim of the United States? They are general assets, if I understand the situation correctly, of the company that operates the vessel, and they would be liable to satisfy a judgment of a private owner claimed in private litigation as well as to satisfy a claim by the U.S. Government for the removal of oil or the matter to which I have previously referred?

Mr. WRIGHT. In response to the gentleman from Florida, if I understand the gentleman's question, it presupposes a condition in which the owner of a vessel might spill oil or other matter and be required by the Government to reimburse the Government for the cost of that spillage. It also raises the further proposition that perhaps such spillage may have caused damage to a third party, a private party, and a third party might bring suit in a court to recover those damages.

I would say that the purpose of the bill is simply to require evidence of financial responsibility in an amount adequate to compensate the Government for the maximum amount to which the individual might be liable for reimbursement of a claimant However, it would be my assumption that these assets, as any other assets owned by the firm or the individual involved after the satisfaction of any claim to the Government would be liable to a judgment of a court of competent jurisdiction in a suit by a person damaged other than the Government.

Mr. PEPPER. I thank the able gentleman for his response to my questions.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr PUCINSKI On page 79, after Line Seven (7), the following
>
> "SEC 9 Section 4 of the Act entitled 'An Act to make appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, approved March 3, 1905 (33 U S C 419), is amended by adding at the end thereof the following 'Nothing in this section, or any other provision of law, shall authorize the Secretary of the Army or any official or any agency of the Government to dump or permit the dumping of the spoil from any dredging operation, or any other earth, garbage, or refuse material, into the Great Lakes Any authorized dumping areas in the Great Lakes established under the provisions of the Act of March 3, 1905, or any other Act are hereby abolished ' "

Mr. PUCINSKI Mr. Chairman, this is a simple amendment, yet it is broad and far-reaching. It repeals the act of 1905 when the Congress of the United States designated about 120 dumping areas in the Great Lakes for use by the Corps of Engineers.

In 1905 that was a perfectly logical and good move. They were dredging from the rivers and harbors and canals relatively clean silt mostly involving sand, and it did not affect anyone and did not create any problems. But in 1969 we have an entirely different matter.

We have heard here today and heard yesterday the distinguished gentleman

from Minnesota (Mr. BLATNIK) tells us that it would perhaps take hundreds of millions of dollars to save Lake Erie. I do not intend to let that happen to Lake Michigan or any other of the Great Lakes if I can prevent it.

Mr. Chairman, this amendment, if adopted, would not bar the Corps of Engineers from dredging. I realize that they have to dredge. Of course, they have to keep these rivers and harbors and canals free for navigation, and I do not propose anything to interfere with or stop that. What we are saying is that the Corps of Engineers will have to find other ways of disposing of the dredging and there are other ways of doing it.

Last year when I asked the Commanding General of the Corps of Engineers whether or not he would be for this amendment to bar the dumping of dredged materials into Lake Michigan and other Great Lakes, he said "Yes, we would be for this amendment if you would find us funds for alternate methods."

They have alternate methods.

So what we are really talking about here now is money. We are not stopping anybody from doing anything. And as the Members of the House have said on many occasions since President Nixon has been in the White House, there is going to be a revision of priorities. I agree—and one of those revisions of priorities happens to be in the Corps of Engineers

If the Members of the Congress will go along with this amendment and bar the dumping in the Great Lakes by the Corps of Engineers of dredged materials and other materials, then the Corps of Engineers will find other methods to handle this material. They have those methods now. They are using other methods.

Just the other day they stopped dump-

[p. 9286]

ing off the shores of Chicago, and they plan to dump this dredged material on land. In many other cities they are building dikes and filling them with such material.

I want to emphasize here, because the opponents of this amendment are going to try to confuse you and say that if this amendment is agreed to, all dredging is going to stop tomorrow. Nothing is going to stop tommorrow except the polluting of Lake Michigan, because the Corps of Engineers has a whole series of alternate methods available to them.

And I suggest to the Members, and I submit to the Members, that whatever the additional costs will be—and it has been estimated that it would cost some $100 million if they would have to cease the dumping of dredged materials into the lakes and go to a land fill process operation—I am sure that is a fair price to pay.

The only people who are objecting to my amendment are the barge owners who today are hauling this stuff out into the Great Lakes and dumping this material, and polluting the lakes.

Mr. Chairman, I have some reason to believe that these barge owners are not even going all the way out to the designated areas, because the authorized areas are not marked off, there are no buoys around them, or anything else, to designate these areas. I have reason to believe that some of these barge owners are not even going to these designated areas, as I say, but are going just halfway, and dumping the stuff helter skelter in the Great Lakes.

Further, Mr. Chairman, since 1905, when this legislation was adopted, the floor of Lake Michigan alone has risen 10 feet Lake Michigan formerly was 113 feet deep, and today it is 103 feet deep.

So, Mr. Chairman, I ask my colleagues to join me in taking the first determined, deliberate move. I call upon the courage of the Members to support this amendment, and to say to the Corps of Engineers that we cannot get everybody else to enforce antipollution laws if Uncle Sam is going to be the No. 1 polluter.

We have evidence, and ample evidence, in the reports on that desk, to

show the degree of pollution that the Corps of Engineers is dumping into Lake Michigan. The amendment offers us a means to try to save the Great Lakes, and not go the route of Lake Erie.

We heard the eloquent plea of the gentleman from Ohio (Mr. VANIK) telling us about what has happened to Lake Erie. We have heard from the gentleman from Minnesota, who has told us why it happened.

I do not want to challenge the statement of the gentleman. I think I have to agree with him. It was purely neglect on the part of a lot of people that killed that lake.

So I say to my colleagues who are on the floor of the House at this moment, if you really want to give meaning to this act—if you want to save one of the greatest natural resources of mid-America—then you will support this amendment

Mr. BLATNIK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, again I must use the same phrase, and I hope it does not sound trite, because it is said as absolutely sincerely as it is humanly possible for one individual to say it, and that is that we are completely in sympathy with the problem presented by the gentleman from Chicago, but all of us who come from the Great Lakes, or all of those in whose districts are the mouths of rivers, where this type of pollution occurs, where there is a discharge into a bay, or into an ocean, or into a gulf, are faced with this problem.

But this has been one heck of a problem. There is not going to be an easy answer We could appropriate $200 million right now and the Corps of Engineers would still have difficulty in dealing with this problem.

Probably the one subject that came up the most often during our hearings was the question of the disposition of dredged spoil in the Great Lakes, and more specifically, in Lake Erie and Lake Michigan, and, I might add, no subject gave us more concern during our discussions in drafting this legislation which we have brought to the floor.

Disposition of dredged spoil is currently the most highly publicized of the possible sources of pollution from a Federal activity. Research is underway seeking to determine whether dredged spoil is in actuality an active pollutant and, if it is, to what extent its introduction into any given body of water does in fact lower the quality of that water. In addition, the Corps of Engineers and the Federal Water Pollution Control Administration are conducting a pilot study to determine alternatives to open lake disposal. A draft of the tentative report on this study was sent to the Governors of the Great Lakes States and to other appropriate Federal agencies earlier this month As evidence of our very real concern in this matter the Committee obtained a briefing on this subject from the reporting agencies several weeks ago. We would hope to receive the report and the administration's recommendations based on the report at an early date.

Whatever the answers are, the continuing viability of the rivers and harbors that produce the spoil are essential to the economics of the region they serve and hence to the total national interest.

For over 100 years the Congress of the United States through River and Harbor Acts has authorized the U.S. Army Corps of Engineers to build and maintain the harbors and waterways of the Great Lakes through which flow the commerce of the Great Lakes, so vital to the strength and prosperity of this Nation.

The vast water area of the Great Lakes, joined by improved connecting channels, provides a low cost transport artery that permits movement of material and products in huge quantities to advantageously located industrial areas. In the calendar year 1967, waterborne commerce at Great Lakes harbors and channels totaled 217.2 million tons of traffic. Controlling depths in both upbound and downbound connecting chan-

nels are 27 feet or more.

The Great Lakes are connected with the Gulf of Mexico by means of 9- to 12-foot barge navigation on the Illinois Waterway and Mississippi River. Connections with the Atlantic Ocean are provided by the New York State barge canal system and Hudson River and by the 27-foot St. Lawrence Seaway.

In order to maintain this great economic area with its marvelous waterway system, it is necessary to dredge about 10.8 million cubic yards of material each year from Great Lakes harbors; 6.7 million cubic yards from Lake Erie harbors alone. In all, 115 harbors on the Lakes must be dredged, although not all in any one year.

The need for maintenance dredging results primarily because harbors of the Great Lakes are located predominately at the mouth of rivers flowing into the lakes. As a result of waste discharges and soil erosion, heavy sediment loads are carried into the harbors by rivers Also, littoral drift of bottom material and storm-generated currents redistribute the deposited sediments into previously dredged areas in the form of shoals. This requires periodic maintenance dredging to remove sediments to maintain established navigation depths

For more than a century most of the dredged material has been placed in disposal areas in the deep water areas of the lakes. In 1966 the Corps of Engineers investigated the possibility of a 4-year program to construct diked disposal areas for the 15 most critically polluted harbors on the Great Lakes. The program was estimated at that time to cost $95,000,000 and the annual dredging costs would have been increased $3,000,000. The magnitude of this cost led to the pilot study to study alternatives to open lake disposal and to evaluate the public benefits to be derived from using the alternate disposal practices.

If open water disposal operations were to be prohibited, restricted, or controlled, as I understand the gentleman's amendment would do, prior to the planned and orderly process now being pursued, the economic consequences will be catastrophic. Trade, commerce, and industry in the United States dependent on our waterways will be severely affected. Railroads, steamship lines, oil companies, steel firms, and other large industrial concerns would be unable to get to or to utilize their dock facilities for loading and unloading cargo at about one-quarter of all ports.

Allow me to include a list of examples of the harbors that would be affected and eventually closed down:

Cleveland Harbor, Ohio
Toledo Harbor, Ohio.
Detroit River, Mich
Buffalo Harbor & B.R C , N Y.
Saginaw Harbor, Mich.
Sandusky Harbor, Ohio
Fairport Harbor, Ohio.
Rochester Harbor, N Y
Erie Harbor, Penn
Lorain Harbor, Ohio.
Rouge River, Mich.
Ashtabula Harbor, Ohio.
Calumet R & H , Ill. & Ind
Huron Harbor, Ohio.
Monroe Harbor, Mich.
Indiana Harbor, Ind
Green Bay Harbor, Wisc
Chicago River & Harbor, Ill.

[p. 9287]

Conneaut Harbor, Ohio.
Harbor Beach Harbor, Mich.
Oswego Harbor, N Y.
Milwaukee Harbor, Wisc.
Two Rivers, Wisc
Grand Haven Harbor, Wisc.
Michigan City, Ind
Manitowoc Harbor, Wisc.
Holland Harbor, Mich
Waukegan Harbor, Ill
St Joseph Harbor, Mich
Racine Harbor, Wisc.
Kenosha Harbor, Wisc.
Sheboygan Harbor, Wisc
South Haven Harbor, Mich.
Frankfort Harbor, Mich
Menominee Harbor, Mich

Transporting the spoil to available land disposition sites is extremely expensive; the land is costly and the transportation is costly. In many cases, the States and localities have indicated their preference to preserve their land for more economically productive use. The Federal Government must allocate its

available tax revenues among a great many equally vocal public demands The dilemma is clear; the attainable solutions are dimly seen at this point. This is not the case of one Federal agency trying to circumvent the water pollution control program. This is an out-and-out case of financing appropriately our wants and needs.

Most people would probably agree that the best solution would be the construction of diked disposal areas, which would require a determination that the benefits to be gained would equal or exceed the additional expense. The pilot study should determine this once and for all time. In my judgment, the benefits are there but they must be quantified and a determination must be made as to who shall bear the burden of the considerable additional costs.

I have been advised that additional authorizing legislation is not needed at this time. The basic authority for construction of the diked areas exist. However, money to undertake this expensive proposition at more than a few locations is not available.

Mr FALLON. Mr. Chairman, will the gentleman yield?

Mr. BLATNIK I yield to the distinguished chairman of the committee, the gentleman from Maryland (Mr. FALLON).

Mr. FALLON. Mr. Chairman, I thank the gentleman.

The gentleman from Illinois may have given the membership this afternoon the impression that the Army Engineers are the people who are polluting the lakes or the Great Lakes The impression that you might have been given, that the Army Engineers are getting some polluted material someplace and dumping it into Lake Michigan is just not the case. When the Army Engineers pick up polluted material, it is polluted already and in the lake when they get there, and they are moving it out someplace else in order to keep the channels open for commerce In other words, the pollution was already there before the Army Engineers got there.

You talk about Lake Erie being a dead lake If that is so, then it has not happened in the last 5 years. It has happened over the last 100 years. Certainly, if you want to put the blame where the blame should be, then it is on the people who polluted the lakes—the people who live around the lakes and on the lakes. It is certainly not the Engineers because they are trying to keep the channels of commerce open in this country on our waterways.

Mr. PUCINSKI Mr. Chairman, will the gentleman yield?

Mr. BLATNIK. I yield to the gentleman.

Mr. PUCINSKI. Mr. Chairman, the gentleman in the well and the very distinguished chairman of the subcommittee for whom I have time and again expressed my deep respect are the great experts of this Congress in this field. He told about the problems that the Corps of Engineers will have if my amendment were to prevail But yesterday he described the problems that we are having in trying to save Lake Michigan. He said, on page 9038 of the RECORD:

> Not only $100 million but several hundreds of millions of dollars will be required in order to clean out and to reverse the situation existing in Lake Erie so as to restore it to an acceptable level of quality and maintain it in accordance with the standards in existence now

If you think the Corps of Engineers is going to be faced with problems now, you have not seen anything that will compare with the problems we will face when huge Lake Michigan, with 25,000 square miles, becomes the kind of cesspool that Lake Erie is today.

I am not suggesting that this amendment is going to save Lake Michigan, but it is the first step, and you can then put some meaningful law into all your other efforts once you have proven to the communities on the Great Lakes that the Government itself is not going to be permitted by law to pollute that lake.

The chairman of this distinguished

committee says that the lake had already been polluted. I think that is a misstatement. We are not transferring polluted soil from one spot to another. We are taking pollution dredgings from harbors and rivers and transferring them into the clean waters of Lake Michigan. And let there be no mistake about this. I say this to my colleagues, and I would like to hear my colleague's reaction. The only thing we are talking about here is money.

Mr. BLATNIK. That is not correct.

Mr. PUCINSKI. There is no other issue. The Corps of Engineers has a whole series of alternatives they can use right now in disposing of these dredgings, either on land, in mine quarries, in dikes. They are doing so in Cleveland. So what we are talking about here is money. It means the Corps of Engineers will have to come before Congress and say, "You have barred us from this way of disposing of dredgings. We now need additional funds to do it in a different way." I say to you that I will support that kind of appropriation if it means saving the greatest national resource in America, and I say to you you cannot underestimate the contribution that the Corps of Engineers, through their dredging and their dumping, are doing toward polluting that lake. Is that not a fact? Is it not a fact that we are talking only about money?

Mr. BLATNIK. No, we are not. I made that clear. And it is neither our committee nor Congress but the Bureau of the Budget that originally asked for a review, a reappraisal of this whole program, and a study of alternatives. It is not only a question of money; it is also a matter of engineering feasibility. You can build a bridge or any other structure perhaps in a hundred different ways. But the question is, what is the best way to build it to make it most effective for the dollar value?

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

What the gentleman is suggesting, in my opinion, would kill the public works projects of the Corps of Engineers in that area of this country, because to be feasible a project must have a 1-to-1 cost-to-benefit ratio. You say the problem is only money. If this means a substantial additional cost on the cost side as compared to the benefit side, and it is suggested that it will cost 10 times as much to do these projects with an onshore method as compared to an offshore dumping, then I am saying to the gentleman that in my opinion you will be killing—and if the gentleman wants to take the responsibility for doing that, that is his privilege—but he will be killing all public works projects under the Corps of Engineers dealing with this subject of dredging in that area of the United States of America.

The second point is that in addition to the fact that it is being studied as to how it can be done, we just adopted an amendment which had as its purpose the spending of $20 million in the Great Lakes area for the purpose of finding out how pollution of all types can be prevented, including the type of thing the gentleman is complaining about. So how far do we have to go?

We have millions of dollars of studies under the present law for the lakes. I just do not understand. I understand the gentleman and my objectives of cleaning up the lakes, but I do not think the gentleman understands the outflow of what the gentleman is proposing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI].

The amendment was rejected.

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the chairman of the committe a question. Yesterday the trustees of the sanitary district had a big meeting. They were discussing the fact that where there is a huge disaster, such as an oil spill or a ship breaking up in the Great Lakes or somewhere else, under the present system there is no way of coor-

dinating immediately.

I would like to ask who is going to move with such emergency measures? There are many agencies, but there is no single agency in charge? Is there anything in this act that would help deal with this problem of trying to set up more meaningful and more coordinated activities in the event of a major disaster such as an oil tanker breaking up in the

[p. 9288]

Great Lakes or some other place? Is there anything in the bill that would bring some relief in this area?

Mr. FALLON. Mr Chairman, is the gentleman talking about pollution in the lakes?

Mr PUCINSKI. About oil spills or oil slicks or anything else.

Mr. FALLON. Mr. Chairman, there is a contingency plan in the act that provides for immediate action in such cases. This is under the direction of the President.

Mr. PUCINSKI. Just for the record and so Members and I will know, who would activate such emergency action?

Mr. FALLON. The President or his delegate. The bill provides a method by which the President would delegate to the responsible agencies involved such as the Coast Guard authority to take charge of any removal action under the other provisions of the bill. This delegation takes place 90 days after enactment.

MR. PUCINSKI. The moving party then would be the Secretary and the Coast Guard and all other agencies could go in and cooperate with them?

Mr. FALLON. That is right, That is on page 50.

Mr. COLLIER. Mr. Chairman, if the gentleman will yield, is it not true that every agency involved could simultaneously move in the emergency that exists, so it is not necessary for anyone to take the lead If one recognizes the need, it could move in without having necessarily any agency coordinate.

Mr. PUCINSKI And they do But the question is, Who initiates the coordination? I think the chairman has answered that. As I understand it, in this bill there is a fund and the Secretary could go to the Coast Guard to start bringing quick and immediate relief. That is as I understand the chairman's explanation.

Mr. COLLIER. But they could start moving in without waiting for coordination.

Mr. PUCINSKI. The question is, Is there some apparatus for immediately coordinating movement, and I believe the chairman has answered the question.

(Mr OLSEN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. OLSEN. Mr. Chairman, I rise today in support of H.R. 4148, the Water Quality Improvement Act of 1969. As a member of the Committee on Public Works I have been particularly gratified during my service with that committee to participate in legislation which has continuously moved forward a vitally needed program of cleaning up the Nation's waters.

H.R. 4148 is another step in that direction. It faces head-on, and properly so, the question of what is important at the present time—oil spillage, sewage from vessels and thermal pollution.

For the first time this legislation will place on the books a meaningful approach to the question of averting such disasters as the *Torrey Canyon* and the *Ocean Eagle* For the first time it recognizes that the many vessels, large and small, which ply our waters can, if not properly supervised, contribute to the pollution of our rivers, lakes, and streams, and coastal waters, and for the first time it faces the fact that a new and vital industry, nuclear plants development industry, which is much-needed to provide power also must be properly supervised so that by its operations through the heat of the waters it may not have an adverse effect on the waters which are needed to cool its processes.

I regret exceedingly that the question

of necessary funding for this program is not contained in this legislation. However, it seems to me that by the passage of this program, and by the prior acts of 1965 and 1966, we have placed on the books the tools that are needed to combat the pollution of our waters. We must now, before too much time is lost, find ways to provide proper financial help for the implementation of the laws we have enacted and also provide the necessary properly trained personnel to carry out the operations of our water pollution control programs.

I have merely touched the highlights of H.R. 4148. There is also contained therein a study of acid mine drainage pollution, continuance of the many necessary and needed research programs now underway or to be initiated by the Federal Water Pollution Control Administration.

Mr. Chairman, I have listened today as several of our colleagues have expressed their views that this legislation does not go far enough. I agree. I believe we should have stronger water pollution standards. The fact of the matter is that we were limited in how far we could go and still retain the support necessary to pass the bill out of the committee.

In Montana we have the highest water pollution standards in the Nation. We would like to see the rest of the Nation enjoy equally high standards, and I hope we can take action in the future to assure this.

Nevertheless, this is good legislation. It is meaningful legislation. I urge its adoption.

Mr. TUNNEY. Mr. Chairman, recent events off the coast of Santa Barbara have called attention to what may be the single greatest potential for pollution of the Nation's water resources.

Oil may be discharged from vessels, refineries, terminals, storage facilities, barges, and offshore drilling operations.

The breakup of the *Torrey Canyon* off the coast of England in 1967 was the first of a series of spectacular events which brought home to the American public the possibility that such an event can happen anywhere at any time.

The *Torrey Canyon*'s oil cargo despoiled the coastlines of two nations for miles and wreaked havoc with the aquatic life of the entire area. The ensuing attempts to control and eliminate the oil were more noted for activity than effectiveness. The cost of the cleanup operation of the Governments, private interests, and citizens of France and England has been estimated at around $8 million.

It also served to point up the fact that under current law such a catastrophe would be beyond the capability of the United States to cope.

Unexpectedly such a catastrophe has occurred in U.S. waters. In the Santa Barbara Channel off the California coast an offshore drilling rig blew out in late January pouring many thousands of gallons of oil to form an 800-mile oil slick and blackening 25 miles of southern California's recreational beaches.

It will be some time before there is a full accounting of the damage, despite the best efforts of Federal, State, and local agencies.

Possible sources of oil pollution are many. There were on January 31, 1969, 7,837 drilled wells on the Continental Shelf under Federal lease. Thousands of other wells and drilling operations are to be found in offshore areas under State jurisdiction.

Hundreds of tankers travel the waterways and territorial waters of the United States. An alarming development is their increase in size to 200,000 tons, with 300,000 tons on the horizon. Together with smaller tankers and barges engaged in transporting billions of gallons of oil and petroleum products they are potential victims of accident, of collision, leakage, spillage or running up on reefs or ashore.

Under present law it has been almost impossible to fix responsibility for damage due to oil discharge. Gross or willful negligence must be proved. This, the Department of Justice reports, is ex-

tremely difficult and few prosecutions have been undertaken.

H.R. 4148, the Water Quality Improvement Act of 1969, now before the House, will repeal the Oil Pollution Act of 1924, as amended. Instead it provides a well-balanced law which will fix responsibility for oil discharge, provide penalties for offenders and make violators responsible for the cost of cleanup up to $10 million, or $100 for each gross ton for vessels and up to $8 million for onshore installations and those within the 3-mile limit.

As the bill makes the Federal Government responsible for the cleanup, it establishes a revolving fund of $20 million with costs to be recovered from offenders and if necessary a lien may be placed on the vessels and their further use inhibited until their liability is provided for.

The Secretary of the Interior is to establish regulations for environmental criteria relative to methods and procedures for removing oil and the Coast Guard will specify the actual procedures and equipment which may be used to prevent discharges as well as those to be used for removal of oil.

Any vessel of 100 gross registered tons will be required to establish financial responsibility to meet the maximum liability in instances of willful or negligent discharge.

A study of other measures to provide financial responsibilities and liabilities with regard to vessels and onshore and offshore facilities by the Secretary of Transportation in consultation with other Federal agencies and industry, is to be completed by 1971.

The total effect of the discharge of wastes from watercraft into the Nation's waterways, estuaries, ports and harbors is enormous. There are over 8 million recreational vessels, 110,000 commercial vessels, 1,500 Federal vessels as well as 40,000 foreign vessels. These are all highly mobile and constitute a serious

[p. 9289]

source of pollution, and one which is growing rapidly.

Most vessels are not equipped to provide even minimal treatment of sanitary waste and there is little control of the disposal of other waste matter from vessels.

H.R. 4148 is designed to correct this by authorizing the Secretary of the Interior to issue standards of performance for marine sanitation devices, and the Coast Guard to issue regulations relative to the design, construction, installation, and operation of the devices. This would apply to new vessels within 2 years and to existing vessels within 5 years. Standards and regulations for Department of Defense vessels are to be issued by the Secretary of Defense.

Certification of acceptable devices is to be by the Coast Guard, and without such certified devices no vessel may be operated on U.S. waters after the lapse of the applicable time established by the act. Penalties are provided for violation.

The Secretary of the Interior may cooperate with State or interstate agencies in a research and demonstration program aimed at eliminating or controlling acid or other mine water pollution. Appropriation of $15 million is authorized for Federal participation in costs not to exceed 25 percent for each project.

This is a problem which has been increasing of late as previous measures to control have proved inadequate and the volume of such drainage is increasing at an accelerating rate.

Twelve million dollars for fiscal 1970 and $25 million for fiscal 1971 and 1972 is authorized for the purpose of grants or contracts with institutions of higher education to assist them in carrying out programs to train undergraduates for careers in design, operation, and maintenance of waste treatment works.

The shortage has been a serious problem and such a program is badly needed.

All Federal officers with jurisdiction over real property or facilities, which may discharge matter into navigable waters, are directed to insure compliance with applicable water quality

standards in the administration of the property or facility within budget limitations.

Federal agencies issuing licenses or permits to conduct an activity which may discharge into navigable waters are directed to require certification that operations will not reduce the quality of water below applicable standards before issuance of license or permit. This is particularly important.

I feel that there now exists sufficient technical and administrative expertise to eliminate the problem and hazards of oil and other hazardous substance pollution. This legislation will serve to integrate and effectuate this expertise in a comprehensive manner.

Passage of H.R. 4148 will insure advances in several phases of the vital battle against the deterioration of the Nation's natural environment. I strongly urge its approval.

The pivotal question for the future, however, is whether the hazards to conservation outweigh the benefits resulting from oil and other resources development on the Continental Shelf and other areas? I believe more research on this question is needed before areas are indiscriminately opened up for resource development.

America has abundant natural resources. However, pollution is rapidly eroding these resources. The preservation of our natural resources cannot await tomorrow—for if we fail to act quickly to preserve our environment there will be no tomorrow.

Mr. SCHADEBERG. Mr. Chairman, I am proud to rise today in support of the Water Quality Improvement Act of 1969.

This bill has been the subject of extensive hearings before the Public Works Committee, of which I am a member, and I have participated in and followed them with great interest. The testimony presented has substantiated the serious need for this legislation, particularly in view of the recent harbor and shoreline incidents involving oil pollution. As a co-sponsor of water quality improvement legislation, I am satisfied that H.R. 4148 is a comprehensive measure incorporating the basic requirements for meeting our water pollution difficulties.

Water pollution is one of the most important problems facing us today. In spite of efforts at all levels, from that of the Federal Government right down to that of the private citizen, our waterways, streams, rivers, lakes, seas, and oceans have not been cleaned out. In my own State of Wisconsin we have been plagued year after year by fish carcasses being washed up on our lake shores. Our citizens have been offended by the stench and the sight of this debris, our beaches have been abandoned, our fishermen, sportsmen, and boating enthusiasts have been impeded in their activities. The provisions of the legislation before us will assist directly and indirectly in combating this unhealthy and bothersome nuisance.

Another problem whose solution will be attempted through provisions of this bill is sewage discharge from vessels. Ships and boats of all sizes which release waste pollutants into our waters will be required to meet marine sanitation standards to be established by the Secretary of the Interior.

The Water Quality Improvement Act will make a significant difference in our approach to the pollution difficulties we face.

Mr. MONAGAN. Mr. Chairman, I rise today in support of H.R. 4148, the Water Quality Control Act of 1969.

Oil and waste pollution of our coastlines and waterways presents a very real threat, not only to our personal physical well-being, but also the ecological balance of our environment.

The advent of the combustion engine signaled more than an era of mass transportation, the attendant vast utilization of oil also started a slow but steady deleterious encroachment upon the ecological constitution of our environment.

What victory will we have if we succeed in mastering the forces of nature if the leisure time we gain must be spent in

a wasteland?

To date we have experienced only the immediate and obvious effects of oil and waste spillage—the dead fish, crustaceans, and plant life. The long-range damage remains to be seen. I think the actual and potential damage is sufficient justification for this legislation.

We have had experience with oil pollution in Connecticut, and I have introduced remedial legislation in this area. From my experience gained from serving on the Government Operations Subcommittee on National Resources, which in 1963 inspected the Connecticut shoreline and held hearings in Hartford, I have maintained a keen awareness of the problem presented by water pollution. I am gratified to note that this bill authorizes the Secretary of the Interior and the Coast Guard to carry out a program controlling sewage discharge.

The focus which this bill places upon oil pollution is responsive to the seriousness of the threat. The provisions of the bill which fix responsibility and limit liability in the event of negligent or willful oil waste discharges indicate that a realistic appraisal has been made of the problems created by oil transport in vessels. Also the civil and criminal penalties provided in this bill force higher protective standards upon oil carriers and oil drilling facilities so as to avoid environmental tragedies similar to the *Torrey Canyon* and the Santa Barbara Channel.

Another prudent section is 11(b) which requires applicants for Federal offshore drilling licenses to conform to State water quality standards. This provision will encompass not only oil and waste discharges, but also thermal pollution, a more subtle but no less dangerous form of water pollution.

I am particularly pleased with the provisions of the bill establishing a revolving fund in the Treasury for the reimbursement of a State or locality that assists in oil waste removal. This provision serves to guarantee swift and effective remedial efforts since the affected States can undertake costly cleanup operations with the assurance that their expenditures will be reimbursed.

I look upon a vote for this bill not only as a vote to enact a necessary remedial measure to meet a growing menace, but also as a vote for long range conservation, for if we do not act now the problem will worsen and the funds necessary to meet the necessities will continually increase.

I regret that because of the present world situation and pressing domestic problems we cannot provide more funds for antipollution measures. I look forward to the day when this will be possible, but meanwhile this bill constitutes a good start on this problem.

Mr. BINGHAM. Mr. Chairman, the stresses on our physical environment imposed by human societies are reaching critical proportions. Many elements of the environment upon which man is dependent are becoming polluted with dangerous chemicals and other substances which threaten to make our air, water, and soil not only less usable to living things, but potentially quite dangerous to life. Perhaps no element of the environment has been more misused than our water, and it is of utmost importance that we devote as much effort as is necessary to insure that our water resources are made pure again and kept

[p. 9290]

that way for both recreational and drinking purposes.

The Water Quality Improvement Act, H.R. 4148, presently before us provides for several badly needed improvements in our capacity to prevent and deal with pollution of our water resources.

The amendment offered by my colleague from Ohio (Mr. VANIK), which is substantially the same in effect as his bill, H.R. 9382, of which I am a cosponsor, points up one major approach to water pollution control and prevention that has not been included in this legislation—Federal assistance for waste treatment and pollution cleanup facilities.

I am greatly disturbed by the fact that crucial time is slipping by without any major effort being undertaken by the Federal Government, to begin to help clean up certain specific bodies of water already heavily polluted and growing more polluted every day. Many scientists feel that some of these bodies of water are nearing the point of no return —that they are becoming so polluted that they may never be adequately purified or that their purification may have to be measured in centuries rather than years or decades. I, along, with Mr. VANIK and other Members of this body, am particularly concerned about such bodies of water as Lake Erie, so important to the citizens of western New York.

Mr. VANIK's amendment would allow bodies of water like these, which are terribly polluted, to be declared "pollution disaster areas", which indeed they are. Federal funds would be authorized to be provided to State, local, and interstate agencies in jurisdictions bordering on such "pollution disaster areas" to help them provide "permanent corrective relief" facilities, such as more adequate waste treatment works and sewer systems.

Inadequacy of State, local, and private waste facilities, and the inability of local governments to improve these facilities and to enforce regulations due to lack of funds, are major causes of continued pollution of many bodies of water.

A broad program of Federal assistance for improvement of such facilities is badly needed, but has been omitted from this legislation awaiting further study by the Nixon administration and the relevant congressional committees. But conditions in some bodies of water, like Lake Erie, are so critical now, and these bodies of water are so near total destruction, that I do not feel we can wait any longer. The provisions of the Vanik amendment would permit us to launch a concerted effort to stop further pollution and begin the clean-up work on at least the worst and most seriously threatened cases of pollution among our many polluted water sources, and would pave the way for a more detailed and comprehensive program. In short, the Vanik amendment provides for the emergency steps that must be taken immediately in the absence of a full-scale Federal program of financial assistance for pollution control. And I strongly urge its adoption.

Mr. MATSUNAGA. Mr. Chairman, it is indeed encouraging that Congress has again recognized the need for new horizons and new innovations to meet this Nation's water needs.

By passage of H.R. 4148, the Water Quality Improvement Act of 1969, we have a logical extension in the area of water pollution control. Congress enacted the first water pollution general legislation in 1948, and the Water Quality Act of 1965, together with the Clean Water Restoration Act of 1963, signaled a new era for water pollution control in the United States.

Of all our natural resources, undoubtedly the most abused is water. So long as our streams, rivers, and lakes could cope with the ever-increasing loads of pollution and waste, we were content to let them struggle along. But, suddenly and dramatically, as in the oil pollution disaster in Santa Barbara, Calif., and the *Torrey Canyon* catastrophe, we find the load is too much.

H.R. 4148, the landmark legislation we consider today, provides for the extension of research, development, and training program of the Federal Water Pollution Control Administration; covers rules and regulations concerning the effect of Federal activities and Federal licenses or permitted activities on our Nation's waters; establishes a new training program designed to provide more efficient waste treatment works both at the municipal and industrial level and provides for proper control of pollution from the various types of water craft that move through our Nation's lakes, streams, and waters A major provision of this bill is the placing of responsibility

for cleaning up after a pollution disaster wherever it occurs in our Nation's waters. In order to provide a more positive emphasis to the program, the legislation would change the name of the Federal Water Pollution Control Administration to the National Water Quality Administration.

Hopefully, this legislation will help to curb the ever-growing contamination of our precious natural water resources, and I urge the passage of H.R. 4148 by the House.

Mr. BOLAND. Mr. Chairman, the bill now before us—the Water Quality Improvement Act of 1969—would correct some of the errors of the past as well as lay the foundation for more fruitful results in the continuing fight against water pollution.

We are in an ungainly financial posture at present that inhibits real progress in this battle—unless, of course, the Congress as well as those in responsible positions throughout the Nation utilize all of the authority and technical knowledge available. This, quite plainly, still hinges on the availability of adequate funding.

This bill before us corrects one grievous error in existing law. The Oil Pollution Act of 1924, recently amended, makes it unlawful to discharge oil from any vessel in the navigable waters of the United States and requires any who do to remove it. However, gross or willful negligence on the part of the owner or operator of the vessel or of the installation must be proven before punitive action may be taken, or responsibility fixed.

This has proved so difficult to do that the Department of Justice has prosecuted only a handful of cases. The result is that oil spills, leakage, and accidental discharge have occurred in many and widely dispersed areas almost with impunity.

One resort has been to resuscitate the so-called Trash Act of 1899—that is, to treat the discharge of oil as any waste material. The Corps of Engineers has striven to enforce this act but with wholly unsatisfactory results.

H.R. 4148 would remove this obstacle by repealing the entire Oil Pollution Act of 1924, as amended, and by substituting a comprehensive and orderly program.

It fixes responsibility for spillage—whether willful or not—and enumerates every known source of oil pollution and every possible means. It extends application to vessels, onshore and offshore installations, and includes inland waters, lakes, harbors, estuaries, and all territorial waters of the United States.

Penalties are specific and procedures are outlined in explicit detail.

In the interest of speed and assurance that the cleanup will be immediate a revolving fund of $20 million would be established.

A study of other measures and possible changes or improvements in the act would be undertaken by the Secretary of Transportation in consultation with all concerned interests.

A growing menace to the Nation's waterways is the burgeoning fleet of recreational boats, very few of which have means of disposing of sanitary waste. Commercial and Government vessels, moreover, have inadequate facilities for this purpose. H.R. 4148 would require every boat and ship to be equipped with such facilities within 2 years for existing vessels, and 5 years for new vessels In cooperation with the Coast Guard their character and capability would be established under this act. And certification of the efficacy of the equipment would be required of all vessels operating in U.S. waters.

Still another growing menace to water resources exists in the rapidly swelling drainage from mining activities, present and past. The act would authorize $15 million for Federal participation—up to 25 percent of the cost of a cooperative program of research and demonstration aimed at controlling or abating this problem.

There is an acute shortage of trained personnel to operate and maintain the

many new and enlarged water treatment plants This Act would authorize $12 million for 1970, and $25 million over the next 2 fiscal years for grants or contracts with educational institutions to establish programs for training undergraduate students interested in a career in this field. Scholarships would be available for these students.

The lakes of the Nation, notably several of the Great Lakes and many smaller ones, are recipients of nutrient waste matter which is prematurely aging them. Some are being referred to as "dying." In any event, their continued existence is threatened by pollution. A program of contracts and grants would be authorized for the Secretary of the Interior to undertake research and development on the lake eutrophication and other problems of the lakes.

Other research and demonstration programs contained in this bill are for the purpose of developing field laboratories, research facilities, experiments

[p. 9291]

and research in the prevention and control of oil pollution, and removal of oil discharges.

It has been demonstrated that Federal installations are among the worst offenders and that many deleterious activities are undertaken under license or permits granted by Federal agencies. Many of these installations discharge pollutants into rivers and streams. H.R 4148 would make it imperative that in the administration of their activities that they, within budget limitations, insure compliance with applicable water quality standards. Federal agencies, before issuing licenses or permits, must obtain assurance that any activities pursued in accordance with the license or permit have been certified by the appropriate State or interstate water pollution control agency, and that any resultant discharges into water courses will not reduce the quality of the water below the applicable standards.

This act is not a panacea, of course, but it would correct some of the major blunders of the past and would authorize several new programs that hold great potential for future progress in the control of water pollution.

Mr. McGREGOR. Mr. Chairman, on October 19, 1967, I introduced a bill entitled "The Clean Lakes Act," whose purpose was the prevention and control of lake pollution. This bill provided for comprehensive pilot programs in lake pollution prevention and control. I am greatly pleased that this proposal has been incorporated into H.R. 4148, the Water Quality Improvement Act of 1969 passed by the House on April 16, 1969.

Section 4 of this bill grants to the Secretary of the Interior the authority to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for the purpose of developing and demonstrating new or improved methods for the prevention, removal, and control of natural or man-made pollution in our lakes. In adopting this provision, the House has authorized the expenditure of $65 million for the 1970–71 fiscal years.

Pollution of our inland lakes has accelerated with the tremendous increase in lake usage during the last few years. What we are witnessing in many lakes is a greatly accelerated rate of maturation caused by man's activities. Without man, it might have taken thousands of years for some lakes to reach extinction.

This problem is, of course, of particular concern to my State of Minnesota, which contains within its boundaries over 15,000 lakes larger than 10 acres. While Minnesota has been a leader in seeking answers to these problems, what America has needed is the kind of comprehensive research program contained in the Water Quality Improvement Act. Minnesotans are anxious to preserve priceless natural inland water resources not only for themselves, but for the enjoyment of the ever-growing number of tourists coming from all parts of the country for Minnesota vacations.

Indicative of my State's concern in this

☆ U.S. GOVERNMENT PRINTING OFFICE · 1974 O—469–516 (Vol 3)