

TOOLS AND RULES ...Federal Environmental Protection Programs



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TOOLS AND RULES
Federal Environmental Protection Programs

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"We travel together, passengers on a little spaceship, dependent on its vulnerable supplies of air and soil; all committed for our safety to its security and peace, preserved from annihilation only by the care, the work, and I will say, the love we give our fragile craft."

Adlai Stevenson

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Preface

The primary purpose of this handbook is to provide local officials and interested citizens with an understanding of some of the Federal environmental statutes and programs which are being implemented by State and local governments.

In an effort to protect the public welfare with regard to air, water, and noise pollution, as well as toxic and solid waste disposal laws, Congress has passed laws which assist States and localities in improving and protecting environmental quality. This legislation provides funding for research, planning construction, and regulation in accordance with certain statutory criteria. Executive action has created an administrative authority, The United States Environmental Protection Agency (EPA), empowered to make funding grants, develop regulations for the enforcement, carry out enforcement of standards, and institute research and local support programs.

The role of State agencies and local government is critical to the proper implementation of the Federal programs. Achieving the national standards for clean air and water requires careful planning and coordination among all levels of government.

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Introduction

In the early 1960's Congress, aroused by its constituents, awoke to the need for consistent planning to conserve, protect and assess the resources of the nation. Man's interruption of the natural assimilative action of streams through overuse, overloading with pollutants, and destruction of the natural recharge areas had brought the country to the brink of a national water disaster. The disruption of the capability for natural self-cleansing of the atmosphere by overloading with pollutants was bringing man close to suffocating himself and destroying all life around him. Suburban sprawl around decaying central cities threatened remaining open space needed for the regeneration of air and water for urban centers.

The congressional concern for the quality of our environment and its effect on the health and welfare of the people culminated in the passage of the Clean Water Act (PL 92-217) in 1977, the Safe Drinking Water Act (PL 93-523), and the Clean Air Act (PL 95-95), as well as other national legislation.

Public understanding and local implementation of plans and regulations are an important part of this "clean-up" campaign. Each of the Acts requires Federal action which assures that the people will act to control environmental degradation.

This manual outlines the major Federal environmental statutes and endeavors to describe some of the action alternatives which will make local action a positive force in the preservation of environmental quality in this country.

Chapter 1

The Clean Water Act of 1977

PL 95-217

On October 18, 1972, the Federal Water Pollution Control Act Amendments became Public Law 92-500. These amendments overhauled previous legislation, streamlined procedures, and initiated the most comprehensive program of water pollution control in the world. In 1977, Congress recognized the need for further adjustments to this far reaching legislation and passed the Clean Water Act of 1977, P.L. 95-217.

The law proclaimed two general goals for the United States--to achieve swimmable, fishable waters wherever attainable by 1983 and, by 1985, to eliminate the discharge of pollutants into navigable waters. These goals reflect a deep national concern about the condition of the Nation's waters and a strong commitment to end water pollution.

The primary objective of the Act is to "restore and maintain the chemical, physical and biological integrity of the Nation's waters."

To achieve this objective and to attain the national goals, the Act provides for a number of authorities, including the following programs:

- 1) Uniform, enforceable national standards for clean water and regulations to enforce those standards.
- 2) A national permit program for discharge from all point sources--industrial, municipal, commercial, agricultural, and other facilities that release pollutants through pipes and sewers.
- 3) Federal funds for construction of sewage treatment systems.
- 4) State and areawide planning and management programs to coordinate broad-based pollution control decisions and to implement feasible methods to achieve clean water over the long term.

The Congress named the Environmental Protection Agency as administrator of the Clean Water Act and established the control of point discharges as the number one priority. EPA has responded to that charge. However, the Act also recognized the seriousness of the nonpoint pollution problem.

"Nonpoint" refers to pollution that is carried over land by rainwater or melting snow or which seeps through the earth and enters waterways in a general manner, not through a pipe or sewer. Unlike point sources, these

sources of water pollution generally cannot be collected and treated. Nonpoint pollution can only be reduced by careful management of water and land resources.

Some examples of nonpoint sources are leakage from septic tanks, leachate from landfills, runoff containing agricultural fertilizer or pesticides, sediment from land disturbance activities or poor silvicultural practices, storm water runoff and salt water intrusion. Recent studies indicate that these nonpoint or diffuse sources, in some places, generate pollution that exceeds the total pollutant loadings contributed by all point or end of pipe sources. Similarly, such studies clearly indicate that nonpoint pollution is the result of inappropriate land use practices which could be regulated.

A court decision caused the EPA to redefine certain discharges from storm sewers, feedlot operations, silviculture and irrigation return flows as point sources subject to the National Pollution Discharge Elimination System (NPDES).

The primary responsibility for the control of pollution generated by nonpoint sources has been placed in the hands of the States. In States with enabling statutes which delegate authority for land use planning at the local level, much of this responsibility can be passed to local governments. It is hoped that the best technological and management practices can be implemented within the existing statutory framework by the concerted actions of State, regional, county and local governments.

If the Congressional goal of fishable and swimmable water is to be achieved, local and county elected and appointed officials must become technically sophisticated enough to create, promulgate and enforce ordinances and standards which will mitigate nonpoint sources of pollution.

Public Law 95-217 looks at the water pollution problem from several angles. A number of programs are established under different Sections of the Act. These provide the tools for citizens, localities, State and the Federal government to achieve clean water. Some of the most important Sections of Public Law 95-217 are listed below. In cases where opportunities for local input are important, these options are enumerated.

Title I

Section 101(e) - Public Participation

This contains one of the strongest requirements for participatory democracy in the entire Federal statute book. A major expectation of Congress was that the public would play a key decision-making role in all water pollution control activities. The words of Section 101(e) are explicit and comprehensive:

"public participation in the development, revision and enforcement of any regulation, standard, effluent limitation, plan or program established by the Administrator (of the Environmental Protection Agency) or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States."

Local Action Alternatives - Participate in development, revision and enforcement of water quality standards, effluent limitations, the State/EPA Agreement, water quality management plans, facilities plans, and other programs. Monitor public participation programs to assure responsiveness to local input. Regulations governing public participation (40 CFR 25) were recently revised to facilitate this process.

Section 106 - State and Local Assistance

Section 106 of the Act provides annual grants to the States from sums appropriated by Congress. EPA then provides guidance to State and Interstate agencies for the use of these funds in controlling and abating their water pollution control problems.

The most current revision to the Water Quality Management Regulations includes for the first time a State/EPA Agreement: The EPA Regional Administrator and the Governor or the Governor's designee will negotiate a State/EPA Agreement which defines State and EPA responsi-

bilities and funding levels. This Agreement encourages program coordination, simplified paperwork and improved program accountability. It also serves as the management tool for all Water Quality Management (WQM) programs, and as a public information document.

The Agreement includes by reference the 106 grant document and the State Strategy, wherein the State prepares and annually updates a five-year strategy for controlling water pollution problems. The strategy is prepared as part of the State's WQM process, and is summarized in the 106 submission. It must be consistent with all approved and certified elements of the State and areawide WQM plans.

Goal of the State Strategy include:

- o the identification of relationships, linkages and strategies for programs authorized by the Clean Water Act, the Resource Conservation and Recovery Act and the Safe Drinking Water Act;
- o a listing of potential sources of Federal and State funds for programs included; a relationship of projected funding allocations to environmental problems, program objectives, and annual State and EPA priorities; and the establishment of an information base for the evaluation of program management;

- o documentation of the coordination activities necessary to produce a comprehensive annual work program that integrates Statewide activities needed to plan and manage ground and surface water supply and other programs;
- o elimination of redundant or unnecessary reporting and paper work requirements.

Utilizing the data and analysis contained in the Strategy, the 106 grant document ties funds to specific program outputs (permits, enforcement, etc.). Thus, the bulk of the WQM program at the State level is a 106 program. As determined by the Regional Administrator, the State may receive funding for the following elements:

- Construction grants management, including development of the project priority list.
- Administration of permits programs.
- Water Quality Management planning and certification.
- Water quality standards development, review and revision.
- Nonpoint source management activities.
- Monitoring and assessment.
- Enforcement, to include compliance assurance activities.

- Training and facilities operation and maintenance.
- Emergency response programs.
- Evaluation.
- Administration of regulatory and other water quality control programs.
- Planning and coordination with Section 208 programs.
- Public participation.

Title II

Section 201 - Federal Grants for Construction of Waste Water Treatment Facilities

The construction grant process provides for direct, federal matching grants of 75% (85% in some cases) of the cost of planning, improving, or building sewage treatment plants and their connecting sewers to local governments to help them meet their Water Act responsibilities.

Construction grant authorizations are distributed to States by Congress. State agencies rank projects by priority according to the severity of pollution problems, population served, and other factors. Applications with sufficient priority for available funds are

forwarded to the appropriate EPA Regional Office for further review and funding. After a federally-funded facility is in operation, the local government must recover operation and maintenance expenses through a user-charge system. It must also recoup from industrial users an appropriate proportion of the federal outlay that went into its construction. Collection of this latter charge is deferred until mid-1979.

The 1972 Act allows the construction of treatment works to be funded in three steps: The first step provides funds for basic planning and selection of a cost-effective and environmentally sound solution to local municipal pollution problems; the second, for engineering, architectural designs, drawings and specifications; and the third and final one, for actual construction. For small communities the second and third steps may be combined.

At the Step 1 phase, the Federal grant requires and underwrites the planning process. In this planning phase, decisions affecting size of the treatment plant, the level of treatment, and the size and location of interceptors and collector sewers are made. These decisions, which will affect growth rates and development patterns, are of vital concern to citizens. The planning must analyze innovative and alternative processes, energy requirements, and recreational opportunities. The full range of environmental impacts must be assessed. Incentives are given for the use of innovative and alternative processes. These may be particularly adaptable

to rural areas. In addition, privately-owned systems are eligible for grants under certain conditions.

Citizen participation in the 201 process can influence the size and location of a sewage treatment plant as well as the type of treatment selected. The public participation regulations (40 CFR 25) and the revised facilities planning grants regulations (40 CFR 35, Subpart E) details opportunities and procedures for allowing effective public participation in the Step 1 process.

The planning requirements for municipal waste water treatment facilities, most of which are in Section 201, are known as "Facility Planning Requirements". Facility planning is linked significantly to the 208 planning process in 201(c) which directs that "to the extent practicable, waste treatment technology shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution." Another linkage occurs between facility planning requirements and Section 208, with the requirement that facility plans be consistent with EPA approved water quality management plans developed under Section 208.

The 201 section of the law requires clearly that planning a waste treatment facility be done on a comprehensive basis considering alternative waste treatment management techniques and the environmental consequences of such alternatives. Attention must be given to the negative social and environmental implications of the size of

sewer lines and the method of sludge disposal as well as to the treatment method itself. Waste treatment management techniques which must be considered in planning facilities funded under Section 201 include treatment and discharge of effluent, treatment and reuse of effluent and land application.

Section 208 - Water Quality Management

Section 208 is perhaps the most comprehensive and complex program that Congress established in Public Law 92-500. The 208 process can tie together several water pollution control programs and enables the development of abatement requirements for municipal, industrial, residual waste, storm runoff, and groundwater pollution control. The law places the responsibility for developing and carrying out solutions to these problems with State and local governments.

Congress considered several points both in creating Section 208 and in relying on State and local decision-making powers. First, the complex technical and political problems of water quality protection vary so widely across the Nation that long term solutions to these problems, especially where the solution is not suited to a national standard, depend upon actions by State and local governments. Second, much of the commitment needed to resolve water quality problems rests with these same State and local governments. Implementation of 208 programs may require new local legislation or institutional

arrangements for water quality control. This also makes the involvement of State and local officials essential.

Under Section 208, geographic areas with significant water quality problems are singled out for areawide planning. A local agency is selected to do the planning. EPA then provides funding to develop a comprehensive program to control municipal and industrial waste water, storm and sewer runoff, other sources of pollution, and land use as it relates to water quality. A State must perform the 208 planning in all nondesignated areas within its borders and must coordinate its planning with that going on in the designated areas.

In short, the purpose of the 208 program is to provide information for sound decision-making by State and local officials so that they can take initiative. Management is the key to the process. A 208 management plan should be cost-effective, politically feasible and, above all, implementable. What makes 208 unique is that State and local governments must develop an approved plan in a public process, with the commitment to undertake whatever action is necessary to achieve swimmable and fishable water wherever that is attainable.

Section 208 provides the only authority under federal law to control nonpoint source pollution (pollution which is carried over land by rain water or melting snow or which seeps through the earth). This type of pollution is a

difficult problem. Because solutions are not always obvious or easy to develop, innovative and complex approaches will be required. While EPA will do research and provide technical assistance to 208 planning agencies, the answer to nonpoint source problems must be tailored to each region by each 208 agency.

The majority of initial 208 plans will be submitted during 1978; all initial plans (which may be updated and revised) must be in to EPA for approval no later than three years after the initial grant was received. A 208 plan should be oriented toward achieving State water quality standards, and will be updated annually through the State continuing planning process. Problems will be prioritized and generally plans will be developed incrementally through updates and revisions. The problems addressed by a plan may vary geographically--in Nebraska, the major pollution problems may be runoff from feedlots and crop lands; the major problem for Cleveland may be pollution from industrial and municipal sources. Each 208 plan will focus on the area's most critical water quality problems. However, every 208 plan must address the following in some detail:

- Population, household and economic projections for a 20 year period.
- A summary of existing land uses (residential, commercial, and industrial) within the planning area;

- A classification of all streams and other navigable waters into two types of segments, those which meet State water quality standards now or will meet them after limiting the amount of pollutant discharges on the basis of national uniform requirements (called effluent-limited segments) and those segments which will not meet applicable State water quality standards even with nationally based discharge limitations (called water quality-limited segments); for the latter type, the State water pollution control agency, under Section 303 of the law, will establish more stringent requirements on allowable pollution;

- An inventory of pollution from all point sources; e.g., municipal and industrial waste treatment outlets, and of pollution from nonpoint sources; e.g., erosion caused by storm water and agricultural runoff. Nonpoint sources control will be necessary in most areas to meet the law's goals; in fact, in some areas, nonpoint sources are the major water polluters;

- Identification of new and expanded municipal sewage treatment plants necessary to handle the area's wastes for the next 20 years to meet the State water quality standards;

- Identification of methods to control sludge from polluting both surface waters and ground water;

-- Identification of new and improved storm water systems for urban/industrial runoff problems with special emphasis on land management controls; e.g., on-site detention storage rather than the construction of new pipes and conduits for off-site treatment;

-- Identification of 11 regulatory programs and land use measures to control nonpoint pollution; e.g., zoning, subdivision regulations, flood-plain regulations and performance standards, and an assessment of the time required to achieve the desired results;

-- Identification of public agencies with the administrative, legal and financial capabilities to construct, operate and maintain treatment facilities and/or to implement the regulatory programs on nonpoint sources. These are the agencies that will be responsible for actually implementing the 208 plan;

-- An assessment of the social, environmental and economic impacts of the plan, including recreation and open space opportunities.

Added to Section 208 during the 1977 revisions to the Act was a section called "The Rural Clean Water Program" (§208(j) which specifically authorizes the Department of Agriculture to sign contracts with land users in selected high priority areas. Under these contracts, a land user can receive special technical assistance and cost-sharing to improve water quality by reducing sediment and other agricultural pollution. High

priority areas for assistance will be identified in 208 plans. Regulations for this program have been proposed.

Local Action Alternatives - There are numerous ways, as outlined below, in which local officials and citizens may participate in the 208 process. Opportunities and procedures for participation are detailed in the revised public participation regulations (40 CFR 25) and in the revised Water Quality Management regulations (40 CFR 35, Subpart G). Specific local action alternatives include:

- 1) Participate in planning for water quality management. Advisory Committees for 208 programs are required and must have representation of private citizens or public interest groups; local elected officials or their representatives must also be represented on the Advisory Committee.
- 2) Participate in plan development to assure consistency with other local planning, State water quality standards, and State priority list for sewage treatment plants.
- 3) Develop and update natural resources inventories to be used in developing land use and control strategies for identified point and nonpoint sources of pollution and residual disposal. Such an inventory can include: existing land use, critical areas, surface and ground water quality, public open space for active and passive recreation, geology, soils survey, stream flows, hydrology and salt water intrusions.

4) Check population projections and land use projections to assure consistency with public values and water quality goals. 208 plans should include provisions for timing of development in accordance with funding priorities for sewage treatment plants established by the State.

5) Develop control program for point and nonpoint sources including land use practices. These programs could include ordinances or regulatory programs for soil and erosion control, storm water control, road construction, on-site disposal of waste water, solid waste management, land disturbance, and potable water supplies. Utilize guidelines for identifying, evaluating and controlling nonpoint sources as published under Section 304, and in other documents.

6) Participate in the evaluation of 208 public participation programs. Participate in public hearings or meetings so that plans can reflect public concerns.

Title III

Section 214 - Public Information

"The Administrator shall develop and operate within one year of the date of enactment of this section, a continuing program of public information and education on recycling and reuse of wastewater (including sludge), the use of land treatment, and methods for the reduction of wastewater volume."

The contribution of EPA's Municipal Construction Division to the mandate of Section 214 is in process of development. Currently under consideration are a major film on the topics listed above in Section 214; placement of a short water conservation film in a distribution contract nationally; distribution of household water conservation pamphlets; production of brochures on conservation methods, water rates and ordinances; possible grants to nonprofit organizations to develop new materials pertinent to Section 214. Consideration also is being given to responsibility/oversight systems, and personnel needs to engage in a continuing program.

Section 301 - Effluent Limitations

Section 301 of the Clean Water Act requires the achievement of EPA-established effluent limitations for industrial and municipal point sources of pollution. Generally, by 1984, industries must meet uniform technology based standards developed for each category of industry -- best available technology economically achievable for toxic pollutants and best conventional pollutant control technology for conventional pollutants. Municipalities, which were all required to meet secondary treatment limits by 1977 under the 1972 Act (P.L. 92-500), are provided an opportunity to obtain case-by-case extensions of the 1977 deadline up to 1983 if a good faith effort to meet the deadline has been made. Municipalities which discharge to marine waters may have their secondary treatment require-

ments modified or waived by demonstrating, among other things, that the modified requirements will not endanger public water supplies, recreational activities, or aquatic life.

Section 302 - Water Quality Related Effluent Limitations

This section requires the establishment of a public hearing process to:

- 1) determine if limitations established under Section 301 would interfere with maintenance or attainment of water quality goals;
- 2) require the Administrator to establish limitations and alternate disposal strategies which will prevent pollution.

Public hearings must establish the relationship of the economic and social costs of achieving such limitations to the economic and social benefits. If the affected discharger is able to prove that the costs outweigh the benefits the limitation shall not become effective. Public input in this process is imperative.

Section 303 - Water Quality Standards

At a minimum, State water quality standards consist of beneficial use classifications for navigable waters, water quality criteria to support those uses, and a statement of policy which prevents the degradation of waters no

matter what the beneficial use. Such standards serve as goals for the water quality management plans (Section 208) and as benchmark criteria for the NPDES (Section 402) permit program. Standards are necessary for the decision-making process of the EPA Construction Grants program (Section 201), the dredge and fill program (Section 404) and the implementation of "best management practices" to abate nonpoint sources of pollution (Section 208).

The Clean Water Act requires States to review and, if necessary, revise their water quality standards at least once every three years beginning in 1972. This review and revision process is primarily a State Agency function. However, public participation requirements of the EPA regulations give any interested constituency an opportunity to become involved. Local government, citizen groups, fishing and hunting organizations, and natural resources conservationists should all take advantage of this opportunity to become involved.

To ensure national continuity in this vital program, EPA has review and approval authority over State water quality standards. The State will usually ask EPA for comments on proposed changes prior to the public hearings. Input from local governments and private individuals will be obtained at the public hearing and analyzed by the State agency. This process may take up to a year to complete. When the State finally adopts its revised water quality standards,

EPA will have three months to approve or disapprove them. When any portion of the water quality standards is not consistent with the requirements of the Clean Water Act, EPA must disapprove it. If the State does not make the necessary changes to its standards, EPA must propose and promulgate Federal standards.

The first three year review and revision period began October 18, 1972 with the passage of the Federal Water Pollution Control Amendments of 1972. States merely had to ensure that their adopted water quality standards complied with the previous Act. Most State standards include criteria for a minimum list of physical/chemical parameters, including dissolved oxygen, pH, turbidity, temperature, and fecal coliform bacteria.

The second round of water quality standards review and revision commenced in October, 1975 and officially ended October 1978. EPA promulgated water quality standards regulations in November, 1975 (40 CFR 130.17). Approximately two thirds of all States have adopted revisions to their water quality standards in this current review and revision cycle. The remaining States plan to have their review completed by the end of the calendar year.

Under the current regulations and guidance (Chapter 5 of Guidelines for State and Areawide Water Quality Management Program Development), EPA does not require a minimum list of toxic substances in State standards.

When a State does adopt numerical criteria for toxic substances, however, such criteria should be in agreement with EPA recommendations in Quality Criteria for Water, (QCW) or else a technical justification must be provided for discrepancies based upon natural background conditions. States are required to upgrade the beneficial use classifications of their waters in the 1983 goal uses of the Clean Water Act, wherever attainable. Further, if a State determines that certain waters should be down-graded, the downgrading must be accompanied by a detailed technical justification.

The EPA is now revising the water quality standards regulations. The public has been invited to participate in the preparation of these regulations through advanced notice of proposed rulemaking in the Federal Register (43 FR 29588; July 10, 1978).

The EPA is also revising its guidance document, Quality Criteria for Water, to add numerical criteria for toxic pollutants specified under Section 307(a) of the Clean Water Act of 1977. This development process will be undergoing significant public and interagency review. EPA is now soliciting comments on a methodology for deriving scientifically defensible water quality criteria (a notice published in the Federal Register at 43 FR 21506; May 18, 1978).

Local Action Alternatives - Participation in public hearings and the planning process is imperative. Some of the ways interested

groups can become involved with the water quality standards effort include the following:

A) Participate in the public hearing established by each State.

B) Monitor and participate in State programs establishing priority treatment of where (1) effluent limitations are not stringent enough to implement applicable water quality standards (severity of pollution and planned use of such waters used to establish priority treatment in this group) and (2) controls on discharge are not stringent enough to assure protection and propagation of indigenous shellfish, fish and wildlife.

C) Monitor and participate in the public process when the State agency establishes maximum daily load limits for local Load levels are intended to implement quality standards with seasonal variation and a margin of safety which takes into account the lack of knowledge concerning relationship between effluent limitations and water quality.

D) Participate in the required continuing planning processes through which the State must:

(1) update effluent limitations and schedules of compliance,

(2) incorporate areawide water quality management plans,

(3) establish maximum daily loads for pollutants,

(4) assure intergovernmental cooperations,

(5) schedule implementation of revised water quality standards,

(6) control disposal of residual wastes,

(7) establish priority ranking for construction of waste treatment works.

Section 304 - Information and Guidelines

Provision is made here for the publication of information and guidelines. Guidelines are included for effluent limitations, point source control, elimination of discharges, alternative waste treatment methods, secondary treatment, identification and evaluation of nonpoint sources, processes and methods to control nonpoint sources including hydrographic modifications in streams, and pretreatment of pollutants.

Section 314 - State Plans for Clean Lakes

The State is required to submit a classification of lakes according to eutrophic condition, develop processes and methods to control sources of pollution and to work with other agencies to restore the quality of other such lakes.

Local Action Alternatives - Develop land use regulations, runoff control, construction practices and waste treatment procedures to control eutrophication of lakes. Monitor the State priority list as to which lakes will be cleaned up first and learn the application procedures for EPA grants to clean up the lakes.

Title IV

Section 402 - NPDES Permit Program

The National Pollutant Discharge Elimination System (NPDES) permit program is perhaps the most significant enforcement mechanism contained in the entire Clean Water Act. This program regulates discharges into the Nation's water from point sources, including municipal, industrial, commercial and certain agricultural sources. All such sources must obtain an NPDES permit from EPA or an approved State agency. No permit may be issued, however, unless it complies with all applicable sections of the Act.

A permit specifies what may be discharged and how much. It sets firm target dates for dischargers who cannot comply immediately with all the terms of their permits. Furthermore, they commit them to reduce or eliminate their discharges in an orderly fashion, in specified steps at specified times. Dischargers not in compliance with all terms and conditions of their permits are in violation of the law and are subject to appropriate penalties.

EPA may delegate its authority to issue permits to the State if the State has submitted a description of its permit-granting program to EPA, and EPA has approved it. As of June 1, 1978, EPA has delegated the permit program to 31 States. For States which have not been delegated the NPDES permit program, EPA issues permits under the Federal permit program. Before a Federal permit is issued, however, the State in which the discharge originates must certify that the proposed permit complies with applicable State requirements.

Treatment Technology and Deadlines

The 1972 Act (P.L. 92-500) required that all publicly owned sewage treatment works (POTWs) provide a minimum of secondary treatment by 7/1/77 and best practicable waste treatment technology (BPWT) requirements by 7/1/78. The Act also required that industrial discharges meet best practicable technology requirements (BPT) by 7/1/77 and best available technology economically achievable by 7/1/83.

Some POTWs have been unable to complete construction of the necessary treatment facilities and achieve timely compliance with the 1977 deadlines. The 1977 Clean Water Act (95-217), however, authorizes EPA or approved States to extend the deadline up to 7/1/83 for POTWs. The 1977 Act also modifies secondary treatment requirements for a community with existing deep marine discharge, if it can show that such discharge requires less than secondary treatment to meet specified EPA discharge criteria.

As for industrial discharges, EPA has discretion under the 1977 Act WA to issue enforcement orders and grant a reasonable time up to 4/1/79 for BPT requirements if such dischargers have made good faith commitments to comply. In limited cases where industrial dischargers have made good faith commitments to discharge into POTWs and have met other specified requirements, the compliance date may be extended up to 7/1/83 provided certain interim permit conditions are met.

The 1977 amendments require different levels of technology beyond BPT for existing point sources depending on the type of pollutant as set forth below with the legislative deadlines.

<u>Type Pollutant</u>	<u>Level of Technology</u>	<u>Legislative Deadline</u>
1. Conventional	Best Conventional Pollutant Control Technology (BCT)	07/01/84
2. Toxic	Best Available Technology Economically Achievable (BAT)	07/01/84 for existing toxic pollutants; one or three years after effluent limitations are established for new toxic pollutants.

3. Non-Conventional BAT
 Three years after effluent limitations are established, but not later than 07/01/84 and never later than 07/01/87.

NOTE: Conventional pollutants (heat excluded) are those susceptible to conventional treatment under normal operating conditions, and will be identified by EPA through Federal Register publication. At a minimum, conventional pollutants include biological oxygen demanding pollutants, suspended solids, fecal coliform, and pH. Existing toxic pollutants, are the 65 pollutants covered by the 1976 consent decree between EPA and the Natural Resources Defense Council and listed under Section 307(a)(1) of the Act. The third area of pollutants, the "gray area" or nonconventional pollutants, are those that are neither conventional nor toxic.

Section 404 - Controlling Discharges of Dredge or Fill Material

Section 404 of the water law can help prevent or minimize damages from the discharge of dredge or fill materials into U.S. waters, including wetlands. Section 404 authorities or

responsibilities were increased appreciably by the Clean Water Act Amendments of 1977. Public Law 92-500 classifies dredge and fill materials as pollutants when they are discharged into U.S. waters. Section 404 authorizes the U.S. Army Corps of Engineers to issue permits, after a public hearing, for discharging dredged or fill material into navigable water at specific disposal sites. It requires the EPA Administrator, in conjunction with the Secretary of the Army, to prepare guidelines for permitting authorities to use in issuing permits. The Secretary of the Army may, however, override the EPA guidelines if there is adverse economic impact on navigation and anchorage. And, the EPA Administrator may prohibit a disposal if he determines, after a public hearing and after consulting with the Secretary of the Army, that a discharge will adversely affect municipal water supplies, wildlife, recreation areas, or shellfish beds and fishery areas (including spawning and breeding areas).

The 1977 amendments authorize issuance of general permits intended to make the 404 program manageable, environmentally protective, and minimally cumbersome. These permits will be based on EPA guidelines and may be issued on a State, Regional or nationwide basis if the permitting authority determines that the permitted activities are similar in nature, will cause minimum environmental effects, and will have minimal accumulative effects. General permits will be for a period of not more than five years and may be modified or revoked if the permitted

activities are found to have an adverse impact or are more appropriately author by individual permits.

The general permitting system will reduce the time required to initiate acceptable operations for discharging dredged or fill material. It will also minimize the effort required to process permits and to ensure that local conditions and State controls are taken into consideration. The public may comment on kinds and form of general permits being considered and direct such comments to the permitting authority and to the responsible EPA Regional Office.

The 1977 amendments require a permit for discharge of dredged or fill material which has the purpose of bringing navigable waters into a use which it was not previously subject, impairs the flow or circulation of navigable waters, or reduces the reach of such waters. Permits will not be required for normal farming, silviculture or mining activities; maintenance or structures such as dikes and dams; construction and maintenance of farm stock ponds, irrigation ditches or maintenance of drainage ditches; construction of temporary sediment basins outside of navigable waters; and construction or maintenance of farm, forestry roads or temporary mining roads that comply with best management practices.

The EPA can approve the assumption of the 404 permit program of the Corps of Engineers by a State which meets very specific requirements written into the amendments of the Act. The

permit program can be assumed by States only for waters that are traditionally navigable. Where navigation is concerned, the Corps of Engineers retains permitting authority, although the position adopted by an affected State is a major consideration in any permit decision by the Corps.

If a State applies for and receives approval of the permit program it is then eligible to consider the discharge of dredged or fill material in waters over which it has jurisdiction under its 208(b)(4) regulatory program. The amendments specify that no permit under section 404 may be required for activities that comply with best management practices prepared in the 208(b)(4) regulatory program that are approved by EPA. Further, the best management practices must comply with the guidelines.

EPA can cause specific permit applications under consideration by a State to be issued by the Corps of Engineers if the State fails to comply with the EPA guidelines or otherwise fails to meet requirements. There are safeguards in the amendments to prevent arbitrary and capricious action on the part of EPA in such matters. Each permit application and each permit issued by the Corps of Engineers or any State is available for public consideration.

The Corps of Engineers is required to enter into agreements with heads of appropriate Federal agencies including EPA, and the Departments of Agriculture, Commerce, Interior and

Transportation to expedite the permitting process at the Federal level. Federal projects which reach the Congress for individual final action must have been evaluated for the impact of dredged or fill material on the aquatic environment. That must be done in part by preparation of an environmental impact statement which includes consideration of the guidelines.

Finally, anyone in violation of conditions specified for his permit, after a warning and opportunity to comply, is subject to civil and/or criminal proceedings. Penalties are specified in the 1977 amendments.

The guidelines are relied upon throughout Section 404 to protect the aquatic environment from adverse impacts of the discharge of dredged or fill material. They are expected to be used as a guide by the Corps of Engineers and States in issuing permits; the Section 208(b)(4) regulatory program best management practices must comply with the guidelines; and environmental impact statements must show consideration of the guidelines for Federal projects that are to be specifically authorized by the Congress.

Abundant opportunity for public participation is provided at every stage of permit process or other evaluation of activities involving discharge of dredged or fill material in waters of the U.S. Also, the approval of a State permit program and the evaluation by EPA of the implementation of State programs are open to public scrutiny and participation.

Section 405 - Permits and Sludge Disposal

The Clean Water Act of 1977 amends Section 405 and requires that any permit for the discharge of sewage sludge must be issued as a part of the NPDES program under Section 402 of the Act, rather than treated separately under Section 405. The new legislation also requires EPA to publish guidelines by 12/27/78 for disposal and utilization of sludge. These guidelines must, among other things, identify uses of sludges and the concentration of sludge pollutants that interfere with each such use or disposal.

New Section 405 provides that the selection of the manner of sludge use or disposal is a local determination. However, it will be unlawful to use or dispose of sludge except in accordance with the guidelines once they are published.

The "best management practice" provisions (Section 304) of the 1977 Act imposes new sludge-related responsibilities on industry. This provision authorizes EPA to publish guidelines to control ancillary industrial activities, including on-site handling and disposal of industrial sludge. However, the provision only applies to toxic and hazardous pollutants which threaten the Nation's waters, and compliance will be required as a part of the NPDES permit system.

Perhaps Section 307 contains the most significant sludge-related amendment in the 1977 Act. It provides that industrial pretreatment

requirements must prevent the discharge of any pollutant into a POTW which could contaminate the sludge from such works or otherwise prevent sludge use or disposal in accordance with Section 405 of the Act.

Permits and Public Participation

The NPDES permit program is one of the most important areas for public participation and involvement of the entire Clean Water Act. The entire permit process must be carried out in the glare of public scrutiny. Permit applications, proposed and issued permits, monitoring and compliance reports and other related information (except trade secrets) must be made available to the public for reading and copying. In addition, no permit may be issued or any final State program be approved without opportunities for a public hearing and consideration of written public comments. Permits, which are valid up to five years, contain effluent limitations, monitoring and reporting requirements as well as compliance schedules, where appropriate. To ensure that the terms and condition of the permits are being enforced, the public also has access to monitoring and compliance reports which permittees must periodically file with EPA or the State agency.

Title V

Section 504 - Emergency Powers

Upon receipt of evidence that pollution is presenting an imminent and substantial endanger-

ment to the health or livelihood of the people, the Administrator may bring suit on behalf of the United States. Local governments and individuals should maintain a data base and surveys to provide adequate evidence should such an event take place.

SUMMARY

Local Action Alternatives in the case of the Clean Water Act fall into six categories:

- (1) Knowledgeable participation in planning through advisory committees, public hearings, meetings.
- (2) development of base line data.
- (3) use of base line data to develop local land use planning which is in basic compliance with agency planning.
- (4) use of data to encourage regulatory ordinances covering nonpoint sources.
- (5) adoption of local statutes which regulate land use and activities which threaten water quality.

"The solution to these problems does not rest on a massive program in Washington nor can it rely solely on the strained resources of local authority. They require us to create new concepts of cooperation, a creative federalism, between the national capital and the leaders of local communities."

Lyndon Baines Johnson

CHART # 3

EPA REGULATIONS FOR DESCRIBED SECTIONS OF PUBLIC LAW 95-217

Clean Water Act

Section of the Act	Title	CFR Reference	Publication
101(e)	Public Participation in the Resource Conservation and Recovery Act, The Safe Drinking Water Act, and the Clean Water Act	40 CFR Part 25	Aug 7, 1978; proposed
106	State and Local Assistance	40 CFR Part 35.1500-1580	Sept. 12, 1978; proposed
201	Construction Grants for Waste Treatment Works	40 CFR Part 35.900-960 (Subpart E)	July 1978; proposed Sept. 1978; final
201	Preparation of Environmental Impact Statements	40 CFR Part 6	April 14, 1975; revisions in process
201	General Grant Regulations and Procedures	40 CFR Part 30	May 8, 1975; revisions in process
208	Grants for Water Quality Planning, Management and Implementation	40 CFR Part 35.1500-1580 (Subpart G)	Sept. 12, 1978; proposed
208	Procedures for Providing Grants to States and Designated Area-wide Planning Agencies	40 CFR Part 35.1500-1580 (Subpart E)	Sept. 12, 1978; proposed
303(c)	Water Quality Standards	40 CFR Part 130.17	Nov. 28, 1975; revisions in process
402	National Pollutant Discharge and Elimination System Program	40 CFR Part 122-125	Aug. 1978; proposed

Section of the Act	Title	CFR Reference	Publication
404	Discharge of Dredged and Fill Material	40 CFR Part 230	Sept. 5, 1975; revision in process
404	Permits for Activities in Navigable Waters or Ocean Waters	33 CFR Part 209.120	July 19, 1977; revision in process
404	State Program for Discharge into Navigable Waters	40 CFR 126	Regulation being developed

Chapter II

The Federal Safe

Drinking Water Act

PL 95-523

The Safe Drinking Water Act (SDWA), P.L. 93-523, was passed by Congress in 1974 (and amended in 1977) to ensure that water supplied to the public is safe to drink. The Act mandates two major program initiatives -- one aimed at ensuring the safety of the Nation's public water supplies and the other designed to protect underground sources of drinking water from contamination through injection wells.

PUBLIC WATER SYSTEM PROGRAM

The law provides for the safety of drinking water supplies throughout the United States by establishing and enforcing national drinking water standards. The Federal Government -- EPA -- has the primary responsibility for establishing the national standards; the States are responsible for enforcing the standards and otherwise supervising public water supply systems and sources of drinking water.

A public water system is one that provides piped water for human consumption that has at least 15 service connections or that regularly serves at least 25 people daily at least 60 days each year. These include both community and noncommunity water systems. A community system serves year-round residents; a non-community water system serving a motel, restaurant, campground or factory -- serves water to a transient population. Municipal governments owning either community or non-community systems must comply with the SDWA and are identified as "suppliers."

The Act requires that municipal governments and private water companies take actions to assure that the quality of drinking water they provide the public meets minimum national standards. These local actions include: testing and reporting on water quality, keeping records, notifying consumers and taking prompt corrective measures when violations of the standards occur.

The law provides that variances and exemptions from a required contaminant level may be granted to a public water supplier under certain conditions. A variance can be granted because of the water system's inability to comply, because of the nature of the water source, or because the raw water is of such good quality that a required treatment is not necessary. The period that variances would be in effect depends on the condition of the raw water sources and available technology.

Exemptions from contaminant levels of required treatment techniques -- extending up to seven years or up to nine years for a regional system -- may be granted by a State for compelling reasons, including economic factors.

DRINKING WATER STANDARDS

EPA must, under the Act, establish interim and then revised primary drinking water standards. The interim primary regulations -- which became effective in June 1977 -- set the maximum allowable amount of certain contaminants (called the maximum contaminant level, MCL), specifically bacteria, turbidity (cloudiness) and certain chemicals and radiological contaminants. These interim regulations are now being revised based on the findings of an 18-month study conducted by the National Academy of Sciences as well as other Agency research activities. The revised primary regulations will become effective 18 months after their final publication. In the meantime, EPA has proposed amendments to the interim regulations to deal with organic chemical contamination of drinking water.

In conjunction with primary regulations which deal with health-related contaminants, EPA has also proposed secondary standards relating only to the taste, odor and appearance of drinking water. Unlike the primary standards the secondary standards are not Federally enforceable.

PRIMACY

States are encouraged to take primary responsibility (primacy) for the enforcement and supervision of drinking water programs. If a State cannot or does not choose this responsibility however, then EPA must implement the program. For both the public water supervision program and the underground injection control program discussed below, Federal grants to States are provided, but continuing eligibility for such assistance is tied to specific deadlines for the assumption of primacy.

GROUND WATER PROTECTION

Ground water pollution can be caused by such factors as the disposal of wastes into streams, the spreading of soluble substances on hard surfaces, particulate matter from airborne sources and storage of wastes in unsealed lagoons and ponds. The legislative authorities provided for the protection of ground water are scattered among seven environmental statutes covering water pollution, solid waste and the control of toxic substances.

Section 1442 of the Safe Drinking Water Act regulates the underground injection of contaminants by establishing minimum requirements for State programs.

In addition, under the authority of Section 1442(e) of the SDWA, four areas have been designated as areas where aquifers serve as the sole or principal source of drinking water. In areas so designated, Federally funded actions threatening the aquifer are subject to review by the Administrator. No Federal financial assistance for a project in such an area will be made available, unless the project will not contaminate the aquifer. Final regulations governing the designation of sole source aquifers are also being promulgated.

Finally, also under the authority of Section 1442 -- EPA has initiated a \$5 million program of grants to States to inventory surface impoundments (pits, ponds and lagoons) and to assess their potential impact on ground water.

LOCAL ACTION ALTERNATIVES

Water supply is a regional problem with serious local implications. Contamination or destruction of a water supply -- whether a stream or a ground water source -- can have wide ranging effects.

The alternatives available for participation in the implementation of the Safe Drinking Water Act fall into two broad categories:

- 1) water supply and distribution planning
- 2) control of contamination of potable water supplies.

Both of these actions require short and long term planning, participation in decisions on development and the use of water resources, and a watchdog role to assure enforcement of water quality standards.

The regulatory procedures for drinking water quality under this Act are subject to the public process. For example, before granting a variance from a drinking water standard, the State or EPA (whichever has primacy) must provide an opportunity for a public hearing. Opportunities for public hearings must also be provided before the State or EPA approves a compliance schedule issued pursuant to the granting of a variance or an exemption from an MCL. In addition, EPA may hold public hearings upon petition of the State, the public water system, or a person served by the system, in order to assist the State in carrying out the primary enforcement role.

On the community level, a public water supply must give notice to its consumers if it:

- 1) fails to meet a primary drinking water standard;
- 2) fails to perform required monitoring;
- 3) has a variance or exemption;
- 4) fails to comply with a schedule imposed with a variance or exemption;
- 5) fails to use an approved testing procedure.

Notices are generally given through the mail; other communications media are notified in certain specific circumstances. Public notification is intended to educate consumers about their drinking water supplies so that they will be willing to support the cost of any improvements necessary to provide safe water.

Finally, a citizen may file a lawsuit against a supplier; however, citizens must notify the supplier, the State and EPA at least 60 days prior to bring suit, allowing for an opportunity to resolve the issue without going to court. The Act also authorizes EPA to provide financial and technical assistance to States and water systems if they are unable to deal with a serious drinking water problem which has the potential of jeopardizing public health.

"Our water resources, more perhaps than any other, illustrate the interaction of all parts of the environment and particularly, the recycling process that characterizes every resource of the ecosystem.... Everything that man himself injects into the biosphere--chemical, biological or physical--can ultimately find its way into the earth's water. And these contaminants must be removed, by nature or by man, before that water is again potable."

Charles C. Johnson, Jr.
Assistant Surgeon General
of the United States

EPA REGULATIONS FOR DESCRIBED SECTIONS OF P.L. 93-523
Safe Drinking Water Act

Section of the Act	Title	CFR Reference	Publication
1412, 1414, 1415, 1450	National Interim Primary Drinking Water Regulations	40 CFR Part 141	December 24, 1975
1443, 1450	State Public Water System Supervision Program Grants	40 CFR 35.600 - 35.630, Subpart B	January 20, 1976
1413, 1414 1415, 1416, 1450	National Interim Primary Drinking Water Regulations Implementation	40 CFR Part 142	January 20, 1976
1412, 1445, 1450	Drinking Water Regulations Radionuclides	40 CFR Part 141	July 9, 1976

Chapter III

The Federal Clean

Air Act

PL 95-396

In passing the Clean Air Amendments of 1970, Congress recognized that air pollution is a national problem requiring a national solution. The 1970 amendments to the Clean Air Acts of 1963-67 authorized the setting of tough, uniform national ambient air quality standards to safeguard public health and welfare and upgrade the quality of American life. Implementation of the Clean Air Act is perhaps EPA's most controversial and comprehensive program and is its most sweeping Federal pollution control scheme.

The 1970 amendments established a general strategy for air pollution control and timetables for action, including a rollback of auto pollution levels. They laid the foundation for a cooperative Federal-State program and strengthened the Federal Government's role in air pollution control. At the same time, the law reaffirmed that State and local governments have the primary responsibility to limit air pollution and provided funds to help them reach established goals of clean air.

In 1977, Congress again amended the Clean Air Act. The general strategy contained in the 1970 amendments was retained, but some modifications and additions were made based on the implementation experiences of Federal, State and local governments.

NATIONAL AMBIENT AIR QUALITY STANDARDS

In April, 1971, EPA issued the first national standards for the six most common contaminants--sulfur oxides, carbon monoxide, particulates, photochemical oxidants, hydrocarbons and nitrogen oxides. National ambient air quality standards for lead are currently in preparation. Primary standards are designed to protect public health. Secondary standards are set to protect society's investment in property such as domestic animals and crops.

STANDARDS OF PERFORMANCE

The Act requires EPA to set "standards of performance" for certain stationary sources of pollution. These standards are not to be confused with the general ambient air quality standards noted above. They set limits on emissions from specific sources such as nitric acid plants, cement factories and metal smelters. Most Federal "standards of performance" apply to both new sources of pollution and to modified older sources, whenever the modification is substantial and results in emissions of new pollutants or greater emission of existing pollutants.

HAZARDOUS POLLUTANTS

Some pollutants are so hazardous that the Act requires direct Federal standards and enforcement to protect public health. Thus far EPA has established national emission standards for four of these substances--asbestos, beryllium, mercury and vinyl chloride. EPA also designated benzene a hazardous air pollutant in June 1977, and is in the process of developing and proposing benzene regulations. Asbestos is implicated in mesothelioma--a form of lung cancer. Beryllium can cause chronic lung disease, and mercury damages the central nervous system. Vinyl chloride is implicated in liver angiocarcinoma and other cancers. Benzene has been shown to cause a cancer affecting the blood cells.

VEHICLE EMISSION CONTROLS

In recognition that increased use of motor vehicles has had a marked impact on air quality, the Act calls for research and controls in that area specifically. Congress wrote auto emissions limits directly into the 1970 and 1977 Clean Air Amendments. Where necessary, controls on the use and movement of vehicles themselves are required. These "transportation controls" may include such measures as mandatory vehicle inspections and maintenance, elimination of parking spaces, more one-way streets, and express bus lanes, computerized signaling, metered traffic, upgraded transit systems, car pools, bicycling, conversion of government and commercial fleet vehicles to liquified natural and petroleum gases, and staggered working hours.

STATE RESPONSIBILITY

Section 110 of the Act calls for the development by each State of a plan for the implementation, maintenance and enforcement of primary and secondary standards of air quality. These plans, called State Implementation Plans (SIP) must assure air quality consistent with the national standards. The plan consists of all the programs, controls, regulations, etc., necessary to do this. The type of controls a State may require include: emission limitations on stationary sources, new source review, and transportation controls.

Implementation plans and timetables naturally vary from State to State and among regions within States, but they all have certain features in common. First under EPA regulations each State must set and enforce emission limits for each major source of air pollution. If the mine, mill or factory in question cannot immediately eliminate the offending agent, the State must impose a schedule of compliance--a series of steps the discharger must take. A typical compliance schedule might include dates by which the discharger must have signed contracts to purchase emission control equipment or alter his production processes, install equipment, test it, and put it into full effective operation.

The compliance schedule is the heart of the national effort to clean up the air: it is essentially a contract between the government and the discharger telling him in specific terms what he must do. Each step in the process is

enforceable in court--State environmental agencies do not have to wait until the final step to take action against recalcitrants. They can do so at any time. Moreover, States have plenary authority to veto the proposed location of any industrial or commercial facilities that would cause pollutants to exceed the Federal ambient air quality standards.

The EPA Administrator will review individual State implementation plans under prescribed criteria set out in the Act itself: whether it expeditiously meets primary standards; whether it induces appropriate emission limitations, schedules, and a timetable for compliance; whether it provides for sufficient monitoring capabilities; whether it provides for review of new sources of pollution; whether it is sufficient from the point of view of intergovernmental cooperation within the air quality region; and whether it provides for sufficient personnel, money, review and inspection. The Administrator must substitute a plan of his own if a State fails to submit one, or if a State fails to revise its plan when necessary to meet or maintain standards.

Under the 1970 amendments to the Clean Air Act, States were required to meet the national primary standards by 1975 with a waiver of the deadline for up to an additional two years, if compliance was technologically impossible and reasonable alternatives are inadequate. Many States are still not in compliance and are in the process of revising their implementation plans in order to meet and maintain national

air quality standards. The 1977 amendments allow States until 1982 to attain standards. States with severe carbon monoxide and photochemical oxidant problems may be permitted to delay attainment until 1987.

LONG RANGE PLANNING

Once States attain standards, they must also consider how to maintain standards in the future. This essentially means long-term air quality planning (Air Quality Maintenance Planning or AQMP) for areas with existing or potential problems.

AIR QUALITY DETERIORATION

SIP provisions for prevention of significant deterioration enable States to protect the air quality of areas cleaner than the national ambient air quality standards. The mechanism to prevent significant deterioration is preconstruction review of selected large sources of sulfur oxides and particulates, such as petroleum refineries. The criteria for approval of a source is based on an allowable emissions increment rather than an ambient air quality standard. The allowable increments differ depending upon which class an area is designated.

LOCAL ACTION ALTERNATIVES

Careful planning at the local level can do a lot to control excessive concentrations of pollutants. Local governments can control transportation corridors, limit industrial development where unfavorable airshed conditions prevail, reduce aerosol discharges, and change solid waste disposal and pesticide practices.

Recognizing that growth and change are the inevitable factors of a healthy economy, there must be an understanding that there are land forms which are well suited to development and there are critical areas which are best suited to other uses. Similarly, resource limitations, assimilative capacities of natural systems and an inherent need for open space must be considered in planning. These combined with proper design and construction techniques, will control pollution while providing an economically viable and healthy environment.

The regional nature of an airshed and the fact that moving wind patterns carry airborne pollutants for great distances limits the ability of local officials to protect citizens completely from air pollution. However, there are some very significant actions local officials may take to improve local and regional air quality. The 1977 amendments provided increased opportunity for local officials to participate in air quality planning. Additionally, it is once again imperative that there be local input when Federal

or State standards are being set, for emissions regulations can and will affect a wide area economically and physically. As in the case of clean water the consumer-resident has a large stake in these decisions.

Local Action Alternatives under this Act fall into two categories.

II. Participation in air quality plan development and implementation

A. Provide testimony at hearings indicating goals and needs.

B. Monitor conditions to determine if stricter standards are necessary to maintain a healthy environment.

C. Participate in revision of the State Implementation Plan.

D. Find out if a Transportation Control Plan is being undertaken and become involved.

E. Participate in Air Quality Maintenance Planning.

II. Local regulation of potential sources of air pollution

A. Land Use Planning

1. Development of transportation and related parking patterns.

2. Control of density of use in critical areas (sites of potential inversions, for example).
 3. Careful location and regulation of industrial complexes.
- B. Regulation of local action (i.e., open burning, recycling of solid waste, energy conservation).

" . . . we cannot escape the fact that air pollution is one of the problems which presses us most urgently. Even now we can clean the litter off a piece of land before we use it, through we may not know how best to dispose of the litter. And we purify a glass of water before we put it to our lips, though we may leave untreated vast water resources we shall soon need. But in the air we breath, we must accept what comes to us."

William D. Ruckelshaus

EPA REGULATIONS FOR DESCRIBED SECTIONS OF PL 95-396

The Clean Air Act Amendments of 1977

Section of the Act	Title	CFR Reference	Publication
103	Research, Investigation, Training and other Activities		
105	Grants for Support of Air Pollution Planning and Control Programs	40 CFR 30.100-30.1150 35.400-1, 35.501-35.538	May 8, 1975, February 28, 1974, as amended and revised
106	Interstate Air Quality Agencies or Commissions		
107	Air Quality Regions (and Nonattain- ment Areas)	40 CFR part 81; 43 FR 8962 (March 3, 1978)	November 25, 1971 as amended and revised
108	Air Quality Criteria and Control Techniques		
109	National Ambient Air Quality Standards	40 CFR Part 50	November 25, 1971 as amended and revised
110	(State) Implementation Plans ¹	40 CFR Parts 51 (require- ments for preparation, adoption, and submittal), 52.01-52.23, and subparts by State (approval and promulgation).	November 25, 1971, May 31, 1972 as amended and revised
111	Standards of Performance for New Stationary Sources	40 CFR Part 60 (issued periodically, by source)	December 23, 1971 as amended and revised

Section of the Act	Title	CFR Reference	Publication
112	National Emission Standards for Hazardous Air Pollutants	40 CFR Part 61 (issued periodically, by source)	April 6, 1973, as amended and revised
116	Retention of State Authority		
121	(Intergovernmental) Consultation	40 CFR Part 51, New Subpart M	Pending
125	Measures to Prevent Economic Disruption or Unemployment		
Part C, 160-169	Prevention of Significant Deterioration of Air Quality	43 FR 26380, 26388 (June 19, 1978)	
	Nonattainment Plan Provisions ¹	43 FR 21673 (May 19, 1978)	
	Agency Designation	40 CFR Part 51, New Subpart M	Pending
174			
175	EPA grants (to local officials)		
176	Limitations on Certain Federal Assistance		
209	State Standards (relating to the control of mobile sources emissions)		
302	General Definitions		
316	Sewage Treatment Grants		
318	Financial Disclosure; Conflicts of Interest		

Section of the Act	Title	CFR Reference	Publication
321	Employment Effects		

¹Revised procedures and timetable for 1979 State implementation plan development are contained in a February 24, 1974, memorandum from the Administrator published in a May 19, 1978 Federal Register.

Chapter IV

The Federal Insecticide, Fungicide and Rodenticide Act , As Amended PL 94-140

Under the amended FIFRA's provisions, the Agency will begin to use a Generic Standards approach to registrations. This will allow EPA to make pesticide health and safety decisions on a chemical-by-product basis rather than a product-by-product basis as in the past. This new system will result in the simplification of the registration procedures and shorten the time required to successfully register a pesticide with the Agency.

The Act distinguishes between the data received by EPA relating to production controls, manufacturing processes, etc., which are protected from disclosure as trade secrets, and those relating to the effects of a pesticide on organisms or the environment, which may be disclosed to the public. In this way FIFRA provides the opportunity for public review of the data bases upon which regulatory decisions are made.

Congress in 1972 mandated that the Agency must register all pesticide products in order to insure that every pesticide product registered with EPA is rereviewed on the basis of the latest scientific standards. Since this reregistration process will take many years, FIFRA allows EPA to grant Conditional Registrations for products identical to products already registered with this Agency. This provision will put manufacturers of like products on "equal footing" as far as registration requirements are concerned, and ease the difficulties which registrants have experienced in the past few years in meeting data requirements not yet imposed on already-registered products.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978, is the primary statute for pesticide regulation. The Act provides for broad government premarket clearance and control of pesticides to insure that they do not pose unreasonable adverse effects on humans or the environment. It calls for Federal and State agencies to jointly work towards proper pesticide regulation.

FIFRA requires that all pesticide products sold or distributed in this country be registered with the U.S. Environmental Protection Agency (EPA). Before a registration is granted, the manufacturer is required to provide scientific evidence that the product will, when used as directed: (1) be effective against the pest or pests listed on the label (this requirement may be waived by the Administrator at his discretion), (2) not injure humans, crops, livestock, wildlife and/or the environment, and (3) not result in harmful residues on food or feed.

In addition to being registered, each pesticide is to be classified by EPA for "general" or restricted use by regulation. Those placed in the restricted category are to be used only by, or under the direct supervision of certified applicators or under such other conditions as the EPA Administrator may have required to protect man and the environment.

The amended Act also provides the States with the automatic authority to register products for use within the State for "special local needs." EPA can veto State registrations where the use is dissimilar from Federal registrations, the State has issued a crop use where no tolerance (allowable residue level) has been established by EPA, or an imminent health hazard exists.

EPA has authority to cancel a pesticide registration if it is determined that the use of the pesticide poses an unreasonable hazard to man or the environment. A registrant can appeal an EPA cancellation notice through a process which includes public hearings and ultimate judicial review. This process can take several years. In severe situations in which an imminent hazard exists, EPA can suspend a pesticide registration which immediately stops shipment of the product, during the time required to consider this cancellation.

Another key EPA responsibility under the FIFRA has been the establishment of standards of competency for certification of applicators for use of restricted use pesticides and developing

criteria under which State certification programs are to operate. The States actually certify applicators, and the Cooperative Extension Service assists in training applicators. In those States where an EPA approved certification program has not been established, the Agency conducts the applicator certification programs.

Also of considerable importance are the Agency's responsibilities to: issue experimental use permits to allow registrants to develop data required for registration, develop pesticide storage and disposal guidelines, implement the national pesticide monitoring plan, and permit exemptions from the Act to State and Federal agencies to meet emergency situations. In addition to this, EPA is working to encourage the development of techniques in Integrated Pest Management (IPM) and is developing IPM instructional materials to be made available through the U.S. Department of Agriculture to the general public.

EPA has the task of enforcing against violations of many provisions of the Act. The Act prohibits the sale of unregistered, adulterated or misbranded pesticides; the use of any registered pesticide in a manner inconsistent with its labeling; and the production of pesticides in an unregistered establishment. Enforcement strategy generally focuses on ensuring industry compliance with product registration requirements and user compliance with label directions. To attain these goals, the Agency engages in the following broad activities: producer establishment

inspections, marketplace surveillance, pesticide sampling, and pesticide analysis. EPA can take any of a number of actions against violators or violative products including: civil penalties, criminal fines, stop sales, use or removal orders, recalls, seizures and injunctions.

However, in cases of suspected misuse of pesticides the States now have the primary enforcement authority if their State laws are found to be adequate. This means that any such cases will be investigated and action taken by the States. States must have proper legal authorities before primary use enforcement is transferred from the Federal government. EPA can act in any case of suspected misuse if a State has not taken appropriate action within thirty days of an alleged misuse, and EPA can take enforcement authority away from States which consistently fail to take proper action.

"For several decades, chemical pesticides have been the foundation of agricultural public health, and residential pest control. Some of these, we have begun to discover, impose an unacceptable risk to our health and our environment.

President Jimmy Carter
1977 Environmental Message
to Congress

EPA REGULATIONS FOR DESCRIBED SECTIONS OF PL 94-140

The Federal Insecticide, Fungicide, and Rodenticide Act

Section of the Act	Title	CFR Reference	Publication
3	Registration of Pesticides	40 CFR Part 162	July 3, 1975
4	Certification of Pesticide Applicators - State Plans	40 CFR Part 171	March 12, 1975
	Certification of Pesticide Applicators - Standards	40 CFR Part 171	October 9, 1974
5	Experimental Use Permits	40 CFR Part 172	April 30, 1975
7	Registration of Establishments	40 CFR Part 167	November 6, 1973
8	Books and Records	40 CFR Part 169	September 18, 1974
18	Exemption of Federal Agencies	40 CFR Part 166	December 3, 1973
24(c)	Authority of States (Proposed)	40 CFR Part 162.17	July 3, 1975

The Federal Insecticide, Fungicide, and Rodenticide Act, As Amended-State Authorities

Section 4 - Use of Restricted Use Pesticides; Certified Applicators

Provides for the establishment of competency standards for the certification of applicators of pesticides. Restricted use pesticides may only be applied by or under the direct supervision of certified applicators. Under this section, States have developed and are implementing programs for certification of pesticide applicators in accordance with these standards. In States where no State plan for applicator certification has been approved, EPA conducts such a program.

Section 5(f) - Experimental Use Permits

Provides for issuance of experimental use permits for the collection of data on a particular pesticide to support a State registration. States may issue such experimental use permits under terms or conditions as prescribed by regulation.

Section 18 - Emergency Exemptions

Provides a mechanism whereby State or federal agencies may be afforded an exemption from FIFRA in emergency situations, thereby allowing these

agencies to utilize pesticides which are not registered for a particular use, are unregistered, or have been suspended or cancelled, in order to control pests threatening crops, the public health, or the environment. Each exemption grant is tailored specifically to the problem at hand. State/Federal agencies request the exemption and document to EPA that an emergency exists prior to EPA approval.

Section 20 - Research and Monitoring

Provides for States to participate in the national monitoring of pesticide residue levels in selected components of the environment, such as air, water and soil. States will provide EPA compatible data for evaluation to identify critical environmental problems.

Section 23 - State Cooperation, Aid, and Training

Provides for the establishment of State/Federal cooperative agreements for FIFRA enforcement programs and for training and certification of pesticide applicators to enable them to use restricted use pesticides. Under this section, EPA may assist States in implementing cooperative enforcement programs through grants-in-aid. This section also enables EPA to provide financial assistance to

Section 23 - State Cooperation, Aid and Training

Provides for the establishment of State/Federal cooperative agreements for FIFRA enforcement programs and for training and certification of pesticide applicators to enable them to use restricted use pesticides. Under this section, EPA may assist States in implementing cooperative enforcement programs through grants-in-aid. This section also enables EPA to provide financial assistance to State agencies conducting pesticide applicator certification and training programs. EPA is authorized to provide up to fifty percent of the anticipated costs to each State conducting a training and certification program.

Section 27 provides for the Agency to act in use enforcement cases if a State has not taken appropriate action within thirty days of an alleged misuse. EPA can rescind the primary use enforcement authority if a State consistently fails to take appropriate enforcement action.

Section 24(c) - Registrations for Special Local Needs

Provides authority to the States to register products for use within a State for "special local needs." The Agency may disapprove such registrations only if the proposed use is dissimilar from Federal registrations, the State registration is for a use on a crop where no tolerance has been set, or an imminent health hazard exists.

Section 26 & 27 - State Primary Enforcement Responsibility

Section 26 provides for the States, which have entered into cooperative agreements with EPA for the enforcement of pesticide use laws and regulations, to have primary use enforcement responsibility for pesticide use violations.

Chapter V

The Federal Resource

Conservation and

Recovery Act PL 94-580

The Resource Conservation and Recovery Act of 1976 (RCRA) amended the Solid Waste Disposal Act of 1965. RCRA has two main objectives: first, to broaden the national solid waste management program to better protect the public health and the environment; and second, to conserve natural resources through waste reduction, and materials and energy recovery.

The Congressional mandates to EPA through RCRA include:

- 1) Regulation of all hazardous wastes from their generation to their ultimate disposal.
- 2) Establishment of State regulatory programs to close all open dumps and control all land disposal of solid wastes, including sludge.
- 3) Encouragement of the development of basic national resource conservation and recovery policies as recommended by the Resource Conservation Committee.

RCRA authorizes Federal assistance to State and local governments to facilitate implementation of the Act in the form of financial and technical assistance, research and development projects, public education, citizen involvement, and information programs.

HAZARDOUS WASTE MANAGEMENT

The Act directs EPA to identify which wastes are hazardous and in what quantities, qualities, concentrations, and forms of disposal they become a threat to health or the environment. The Governor of any State may also petition to have any substances so identified and the Administrator is then given 90 days to act on this petition.

EPA is required to issue standards for generators and transporters of hazardous wastes, covering recordkeeping, labeling, containerization, manifest systems, and quantity and disposition reporting. (Substances listed by both the Administrator and the Secretary of Transportation must be consistent with the Requirements of the Hazardous Material Transportation Act.)

Persons owning or operating facilities for the treatment and storage of hazardous wastes are required to obtain permits within 90 days after identification and listing. Permit applications must indicate composition, quantity, disposal rate, and location of the disposal site. EPA or States (in jurisdictions having

hazardous waste programs) may revoke permits of nonconforming users. Interim authorization is granted to anyone who has applied for a permit.

The Administrator is required to publish guidelines to assist the States in developing approved hazardous waste programs. States with existing programs may receive interim authorization upon demonstrating that their programs are substantially equivalent to the Federal program. (This temporary authorization lasts for two years.) EPA may withdraw authorization within 90 days of notice on nonconformities.

In order for EPA and State officials to enforce these requirements, the Act authorizes them to inspect facilities, copy records, and obtain samples. Information obtained will then be made available to the public.

Proposed criteria for identifying hazardous wastes have been drafted and are expected to be proposed in September 1978. Regulations for controlling the transportation of hazardous wastes have been proposed. Other regulations related to hazardous waste generators, facilities and permits are under development.

STATE OR REGIONAL SOLID WASTE PLANS

EPA is required to publish guidelines to help identify areas with common solid waste management problems, and to identify appropriate units for planning regional solid waste management services. Such guidelines are to consider, among

other factors, the size and location of areas, and the volume of solid waste they produce.

The Agency is to promulgate guidelines to aid States in the development of solid waste management plans. These guidelines are to be reviewed frequently and modified where necessary. They are to encompass consideration of the varying characteristics of individual States, including quality of groundwater and ambient air, methods of waste collection, methods for closing and upgrading open dumps, markets for recovered material, and types of resource recovery systems.

In order for a State plan to be approved, it shall identify responsibilities of State, local and regional authorities in carrying out the plan, show the distribution of Federal funds, and specify the strategy for coordinating regional plans. Each plan shall also prohibit the establishment of new open dumps and require that all nonhazardous wastes be either used for resource recovery or disposed of in sanitary landfills. Existing open dumps are to be improved or phased out. Plans are to provide a foundation for whatever regulatory authority will be required by the States to implement the plans.

EPA is to promulgate regulations setting forth criteria for determining if facilities will be classified as sanitary landfills or as open dumps. Open dumps are prohibited except in situations where a compliance schedule is arrived at pursuant to an approved State plan. The Agency, in cooperation with the U.S. Bureau of Census, is to then publish an inventory of all open dumps within the United States.

The Governor of each State is to identify areas within each State which will constitute regional solid waste management units and identify an agency to implement the State plan. Since it is possible that designated regions may be interstate in nature, Governors of neighboring States may agree upon regional boundaries. Six months after such regions are identified, agencies are to be established to develop the State plans.

EPA will have 6 months to approve or disapprove a submitted State plan, but the Administrator will retain the option of revising or correcting approved plans from time to time. Plans which are not revised to conform to minimum requirements will, after notice and opportunity for public hearing, lose their approval.

EPA is authorized by RCRA to issue grants for the implementation of solid waste management programs.* Eligible activities include proposal requests and evaluation, technical and legal consultation, site surveys, marketing and construction studies, technology assessments, and source separation facilities. The funds may not be used for actual construction or for acquisition or interest in land.

For more detail see, Financial Assistance: Grants Authorized by the Resource Conservation Recovery Act of 1976, U.S.E.P.A., (Washington, DC, 1978).

"Special Communities" with low populations and high levels of solid waste disposal will be eligible for grants to be used for conversion, improvement, consolidation or construction of solid waste disposal facilities.

Proposed criteria for classifying solid waste disposal facilities were published in February 1978. Many public meetings have since been held and the comments received are being incorporated into revised criteria. The final national criteria should be published by the end of 1978, at which time the States can begin to inventory all open dumps under their jurisdiction.

Proposed guidelines for the development and implementation of State solid waste management plans were published in August 1978. After public review and revision the final guidelines should be published in early 1979.

RESOURCE CONSERVATION COMMITTEE

As directed by the Act, the EPA Administrator serves as Chairman of a Resource Conservation Committee (a Cabinet level body composed of various agency heads) which is studying resource conservation with respect to economic incentives and disincentives and product charges.

INFORMATION, DEMONSTRATION, RESEARCH,
AND DEVELOPMENT

As directed by the Act, EPA is collecting, developing, and evaluating information on costs of waste collection, waste management practices, recovery of energy from waste, waste reduction, new technologies for resource recovery, hazardous waste control, sanitary landfills, markets for recovered materials, and research and development projects involving solid waste. The Administrator has established a Central Reference Library for information dealing with these concerns and for collection of model accounting systems. The Agency has proposed and is updating model cost- and revenue-accounting systems applicable to the solid waste management programs of State and local agencies.

EPA is given authority to enter into contracts with public agencies or with private persons for construction and operation of full scale demonstration facilities and to provide financial assistance in the form of grants for new or improved technologies. Cost sharing with all State and local persons and instrumentalities involved will be encouraged.

As directed, the Agency is conducting special studies on markets for energy recovered from solid waste, methods of disposal which will conserve energy, use of Federal procurement to develop market demand, recommended incentives to accelerate materials recycling, the effect of barriers to acquisition of disposal sites, and agricultural and mining waste management practices. EPA may implement demonstration projects to test study findings.

All Federal agencies that have the responsibility for drafting or reviewing specifications for items procured by Federal agencies will be required to determine whether such specifications conform with the recovered materials requirement. The Act directs EPA to prepare, and update as appropriate, guidelines to aid procuring agencies in complying with the recovered materials requirement. Such guidelines will contain information as to the availability and sources of supply of such materials. This procurement policy will be coordinated by the Office of Procurement Policy in the Executive Office of the President, in cooperation with EPA.

All Federal agencies having functions relating to solid and hazardous waste will be required to cooperate with EPA in implementing this Act and may be required to provide appropriate resources to EPA, upon its request, on a reimbursable basis.

Additionally, all Executive agencies which have jurisdiction over solid waste disposal facilities or land on which such facilities are located must comply with all guidelines and requirements of the Act.

TRAINING

Many municipalities throughout the Nation are already responsible for managing the solid

waste generated by their residents. Resource recovery programs are being instituted with great success in many areas.

EPA is encouraging State and community officials, civic, environmental, consumer, industry, neighborhood organizations, and private citizens, to make every effort to participate in the planning process established by law. Since local responsibilities for enforcement of solid waste management plans will be delineated, it is imperative that participation begin in the early stages of planning. In reviewing impact statements for land use planning, officials should consider the problems of solid waste management.

The Administrator may bring suit to enjoin any handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which is presenting an imminent hazard to public health or the environment. Any person may also petition the Administrator for the promulgation, amendment, or repeal of any regulation under the Act. Should any portion of the Act be invalidated, the unaffected portion of the law will remain valid. The Act also provides for judicial review of final regulations in the United States Court of Appeals for the District of Columbia.

Interim final guidelines have been promulgated for public participation in the revision, implementation, and enforcement of any regulation under RCRA.

"We must realize that we can no longer throw our wastes away because there is no 'away'."

Governor William T. Cahill
(New Jersey)

Chapter VI

The Noise Control Act of 1972

PL 92-574

The Airport and Airway Development Act of 1970 and the Federal Aid Highway Act identify noise as one factor among others to be considered in the planning, development and construction of airports and highways. EPA is required to evaluate environmental factors involved in such projects and to report its findings to the Secretary of Transportation. He in turn must take them into consideration before making a final decision on the feasibility of a given noise.

The Noise Pollution and Abatement Act of 1970, directed EPA to set up the Office of Noise Abatement and Control to study the effect of noise on public health and welfare and to study a wide range of problems concerning the harmful effects of noise.

THE NOISE CONTROL ACT OF 1972

With the enactment of the Noise Control Act of 1972 came the first major piece of Congressional

legislation in this area. The stated purpose of the Act is to establish a vehicle for the effective coordination of federal research and activities in noise control, to conduct research, to authorize the establishment of federal noise emission standards for products distributed in interstate commerce, to provide technical assistance to State and local governments and to provide information to the public respecting the noise emission and noise reduction characteristics of such products. In addition, the Act amends the Federal Aviation Act of 1958 to provide for interdepartmental action between the Federal Aviation Administration (FAA) and EPA in the prescription of standards and regulations relating to the control and abatement of aircraft noise and sonic boom. It further provides for similar cooperation between the Department of Transportation and EPA in the promulgation of standards and regulations relating to the noise emission of interstate railroad and motor carriers.

Under the Noise Control Act, the Administrator is given the authority to prescribe regulations for products designated as major noise sources, where noise emission standards are feasible, and where the product falls into one of the following categories: construction equipment, transportation equipment, any motor or engine, electrical or electronic equipment. Each regulation must include a noise emission standard which sets the limits on emissions from a given product, and which, based on published criteria, is a requisite for the protection of the public health and welfare. Factors for

consideration are the magnitude and conditions for use, the degree of noise reduction achievable through the application of the best available technology, and the cost of compliance. The Administrator is also authorized to devise regulations for other noise sources where standards are feasible and when it is determined that the source poses a threat to the public health and welfare. The Administrator may require labelling of designated products, which will put the prospective user on notice of either the product's exceptionally high noise emission level or its effectiveness in reducing noise.

Under the Act, the Administrator may issue an order, after notice and a hearing, specifying such relief as he deems necessary to protect the public health and welfare, and may request judicial action to restrain violations of the law. There are criminal penalties for the following acts: the distribution in commerce of any new product not conforming to the emission standards specified or the designated labeling requirements; the noncompliance with an order of the Administrator; or the failure to maintain certain records, make certain reports and tests, or provide certain information. Private citizens also can bring civil actions for violations of the law.

EPA has published final rules to control noise from new portable air compressors, interstate motor carriers, medium and heavy trucks, and railroad engines and cars. The latter

standard includes levels that can not be exceeded by engines and cars already in use. Further, the EPA has proposed to FAA noise abatement rules for aircraft and airports.

Most existing local noise abatement regulations are based on nuisance provisions which are difficult to enforce. New ordinances adopted at the local level which are consistent with/or supplements/or is complementary to the Federal and State laws and provide for realistic enforcement practices will help protect citizens from noise. In all cases the protection of public health and welfare is the major legal basis for control.

STATE AND LOCAL TECHNICAL ASSISTANCE

Assistance to State and local agencies is provided by both the headquarters staff and the 10 EPA regional offices, with the latter assuming the major role in this area. Efforts to date have concentrated on encouraging the development of State and local noise control programs to implement inuse and operational measures for immediate noise control benefits and to complement EPA regulatory efforts. Examples of these activities range from assisting the Cities of Philadelphia, PA and Boise, Idaho with planning and conducting a community noise measurement program to working with the City of Kansas City on the development of a noise ordinance and helping the State of Washington develop and implement a State noise control program. EPA is supporting the City of Chicago and the State of Florida with programs to determine the contribution of motor vehicles and environmental noise.

Advice on Training of Noise Control Personnel

EPA sponsors regional noise workshops to train State and local officials in all aspects of environmental noise. These workshops are administered by the EPA regional noise program personnel. EPA has conducted over 50 workshops in various locations throughout the country, educating an estimated 2,000 officials.

To further assist State and local noise programs, EPA published "Guidelines for Developing a Training Program in Noise Survey Techniques" in July 1975.

Development of Noise Training Manual

EPA is developing a noise training manual for three target audiences - decisionmakers, environmental managers and entry level noise technicians. Upon development, the manual will also be adapted into an accredited correspondence course for State and local noise officials.

Advice on Selection and Operation of Noise Abatement Equipment

EPA also advises State and local governments on types and uses of sound measurement and analysis instruments. Sound level meters and other types of equipment are available for loan to States and localities through the EPA regional noise offices. EPA also evaluates instruments such as sound level meters and community noise monitoring systems.

Development of Improved Methods for Measuring and Monitoring Noise

EPA has recently developed a community noise monitoring and assessment manual. This manual is designed to provide local community officials with uniform guidelines for the design and implementation of a community monitoring program, including a locally administered social survey program and an acoustical noise monitoring program. EPA is developing a computer based analysis program to provide processing and analysis services for communities using the EPA community noise monitoring and assessment manual.

Preparation of Model State and Local Legislation

Both a "Model Community Noise Control Ordinance" and model State noise control enabling legislation have been developed by EPA. To date, 17 states have incorporated "Model Ordinance" guidelines in their noise control programs. The model State law was developed in cooperation with the Council of State Governments and was published by them in 1974. As a complement to the model community ordinance, EPA is developing a Code of Recommended Practices with simple and technically correct local enforcement procedures. EPA is also developing Model Noise Control Provisions for Building Codes. The Model Provisions and an accompanying Implementation Manual will be designed to provide communities with the basic tools and program guidelines necessary to reduce intrusive noise in multifamily dwellings and schools.

State and Local Noise Control Demonstration Program - Quiet Communities Program (QCP)

In September 1977, EPA launched its first Quiet Communities Program in Allentown, Pennsylvania. The QCP is a pilot project to demonstrate the application of the best available techniques for local noise control. The program includes a community noise assessment program, model local noise control strategy, noise control legislation, and an enforcement program. The emphasis of the QCP effort is on total community involvement and action, aided by EPA guidance and fiscal support. It is anticipated that two more pilot QCP demonstrations will be started in 1978.

Allentown has just completed the first stage of the program - a comprehensive assessment study to identify and define their noise control needs. The assessment data will be incorporated into a local noise control strategy and the drafting of a responsive noise control ordinance.

Each Community Helps Others (ECHO)

The ECHO program is designed to aid communities throughout the U.S. in developing or improving noise abatement programs through the advice and assistance of noise control experts from other communities. Program emphasis is on the transferability of local noise control skills and experience. The ECHO program was successfully initiated in January 1978. Examples of the ECHO activities are:

- o Washington Metropolitan Council of Governments in assisting Norfolk, Virginia
- o The State of Florida is assisting Charleston, South Carolina
- o Lincoln, Nebraska is assisting Des Moines, Iowa and Council Bluffs, Iowa
- o Boulder, Colorado is assisting Sioux Falls, South Dakota
- o San Diego, California is assisting Tempe, Arizona
- o Portland, Oregon is assisting Anchorage, Alaska

To date, 105 manhours of community noise advisor expertise have been contributed to recipient communities; an estimated 360 man-hours are projected to be contributed each quarter. The program is now being expanded to include 20 more communities.

DISSEMINATION OF PUBLIC INFORMATION

A major public information effort was launched in 1976 with the opening of an environmental noise exhibit. The exhibit, designed to stimulate the audience's awareness of noise and its effects, is now on permanent display in Chicago at the Museum of Science and Industry.

To inform the public on the hazards of environmental noise EPA is developing:

- o A noise curriculum module to be used in elementary and junior high school
- o A noise curriculum module to be used in the Joint Apprenticeship training program of the International Operating Engineers Union
- o A curriculum unit to be used by the International Brotherhood of Police Officers in training apprentice and journeymen police officers to properly enforce noise regulations.
- o Hearing conservation information to be given out in conjunction with the administering of hearing tests in public schools.

In 1978, the Agency will be developing consumer oriented information to help people reduce the noise level in their homes, neighborhoods and communities. Includes will be information to prepare consumers to understand and use the EPA product noise labels in making purchasing decisions.

Each community has its own goals for environmental quality, health and economics. Additionally, each community has its own configuration of noise sources and their impacts which must be controlled.

In local ordinances, provisions must be made for preemption by Federal regulations as they are adopted by EPA. These include requirements that any local law which sets noise emission levels for interstate motor vehicles, rail locomotives and cars must be identical with Federal standards regardless of any special local conditions or other factor; local laws which regulate or restrict the use, operation or movement of interstate motor rail carriers by such methods as curfews on truck routes will not be preempted if the principal purpose is not the control of noise or if the regulation to control noise has been approved by EPA. General noise regulations will not be preempted unless they are in conflict with EPA regulations. For example, abatement can be sought if there is no EPA requirement to control the noise level emission of the vehicle itself.

The local regulation of noise is carried out by ordinance controlling levels of emission and through land use planning. Local ordinances often contain provisions for:

1. suggested acceptable levels of sound
2. the delineation of noise sensitive zones (libraries, schools, hospitals, churches)
3. prohibited acts
4. limits for sound levels beyond property lines and during specific times
5. motor vehicles maximum sound levels
6. variance procedures
7. enforcement
8. educational programs to encourage public participation

In summary, a comprehensive, enforced local ordinance prohibiting excessive sound levels is the most appropriate and useful local action.

EPA REGULATIONS FOR DESCRIBED SECTIONS OF PL 92-574

The Noise Control Act of 1972

<u>Section of the Act</u>	<u>Subject</u>	<u>Publication</u>
6 - Noise Emission Standards for Products Distributed in Commerce	Portable Air Compressors	January 14, 1976
	Medium and Heavy Trucks	April 13, 1976
	New Wheel and Crawler Tractors	July 11, 1977 proposed; 42 CFR 3580-4
	Garbage Trucks	August 26, 1977 proposed; 42 CFR 43226
	New City Buses School Buses Inner City Buses	September 12, 1977 proposed; 42 CFR 45776
8 - Product Labeling	Motorcycles; Street, Off-Road, Moped-type motorcycles	March 15, 1978 proposed
	General Provisions for Noise Labeling and Labeling Requirements for Hearing Protectors	June 22, 1977 proposed
18 - Motor Carrier Noise Emission Standard	Maximum in-use Noise Standards for Vehicles Over 10,000 lbs.	October 29, 1974 effective Oct. 15, 1975

Chapter VII

Toxic Substances

Control Act

PL 94-469

The Toxic Substances Control Act authorizes EPA to obtain data from industry on selected chemical substances and mixtures, and to regulate the substances when needed. Chemicals used exclusively in pesticides, food, food additives, drugs, and cosmetics are exempted from the Act, as are nuclear materials, tobacco, firearms, and ammunition.

The EPA Administrator may require manufacturers or processors of chemicals to conduct tests at their own expense. Testing may be necessary to evaluate a chemicals's health or ecological effects according to specified testing standards. An interagency committee of government experts will advise the Administrator concerning chemicals to be tested, but his actions are not limited to those recommended by the committee.

Manufacturers of new chemical substances must notify the Administrator at least 90 before the manufacture of the chemicals for commercial

purposes. The Administrator may issue an order and seek a court injunction, if necessary, to keep a new chemical off the market. Among chemicals which are or may be exempt from pre-market reporting are those (a) produced in small quantities solely for research, (b) used for test marketing purposes, or (c) determined not to present an unreasonable risk.

The Administrator may prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture if he finds that these activities present an unreasonable risk to health or the environment. Labelling may be required for a chemical or any article containing the chemical.

When regulatory actions are proposed, there must be an opportunity for comments by interested parties, including an oral hearing, and in certain instances, cross-examination. For imminent hazards, the Administrator may ask a court to require whatever action may be necessary to protect against the risk.

Other sections provide authority to require reporting and record-keeping by manufacturers and processors of chemicals; call for expanded research activities; address the relationship of this law to other laws; and provide for citizen civil actions and petitions. In addition, the law requires EPA to take action to regulate polychlorinated biphenyls (PCB's). The Act prohibits all production of PCB's in commerce after July 1979.

TESTING OF CHEMICALS

The EPA Administrator may require manufacturers or processors of potentially harmful chemicals to conduct tests on the chemicals. Testing may be directed to evaluate the characteristics of a chemical, such as persistence or acute toxicity, or to clarify its health and environmental effects, including carcinogenic, mutagenic, behavioral, and synergistic effects. Before requiring testing, the Administrator must set forth the need for such testing. Specifically, the Administrator must find that (1) the chemical may present an unreasonable risk to health or the environment, or there may be substantial human or environmental exposure to the chemical; (2) there are insufficient data and experience for determining or predicting the health and environmental effects of the chemical; and (3) testing of the chemical is necessary to develop such data. The manufacturers or processors of a chemical must bear costs of testing that chemical.

PREMANUFACTURE NOTIFICATION

Manufacturers of new chemical substances must give the Administrator 90 days notice before the manufacture of the chemicals. Any chemical which is not listed on an inventory of existing chemicals to be published by the Administrator will be considered "new" for purposes of the premanufacture notice requirement.

The Administrator may designate a use of an existing chemical as a significant new use, based on consideration of the anticipated extent and type of exposure to human beings or the environment. Any person who intends to manufacture or process a chemical for such a significant new use must also report 90 days before manufacturing the chemical for that use.

In both of the above cases, the Administrator may extend the 90 day premanufacture review period for an additional 90 days for good cause.

Exempt from the premanufacture notification requirement are chemicals: (1) included in categories of chemical substances listed on the inventory of existing chemicals; (2) produced in small quantities solely for experimental or research and development purposes; (3) used for test marketing purposes and (4) determined by the Administrator not to present an unreasonable risk. A person must apply for an exemption described by (3) and (4) on a chemical-by-chemical basis.

In addition, a person may apply for an exemption from premanufacture notification requirements if a chemical exists only temporarily and there is or will be no human or environmental exposure. This exemption is directed to chemicals which exist as the result of a chemical reaction in the manufacture or processing of a mixture of another chemical substance.

REGULATION OF HAZARDOUS CHEMICAL SUBSTANCES AND MIXTURES

The Administrator may prohibit or limit the manufacturing, processing, distribution in commerce, use, or disposal of a chemical substance or mixture if he finds that these activities or any combination of them presents or will present an unreasonable risk or injury to health or the environment. Labeling may be required for a chemical or any article containing the chemical. A manufacturer may be required to make and keep records of the process used in manufacturing a chemical and to conduct tests to assure compliance with any regulatory requirements. Further, the Administrator may require a manufacturer to give notice of any unreasonable risk of injury presented by his chemical to those who purchase or may be exposed to that substance. A manufacturer also may be required to replace or repurchase a substance which presents an unreasonable risk.

A rule limiting, but not banning, a chemical may become immediately effective when initially proposed in the Federal Register if the Administrator determines that the chemical is likely to present an unreasonable risk of serious or widespread injury to health or the environment before normal rulemaking procedures could be completed. However, in the case of a rule prohibiting the manufacture of the chemical, the Administrator must first obtain a court injunction before a rule can be made immediately effective.

If a chemical contains a hazardous contaminant as the result of a certain manufacturing process, the Administrator may order the manufacturer to change his process to avoid such contamination. If a chemical contains a contaminant which may present an unreasonable risk of injury to health or the environment, the manufacturer may be required to give public notice and to repurchase or recall the product.

In addition, the law requires that the Administrator take action to regulate polychlorinated biphenyls by issuing labeling and disposal regulations by July 1977, restricting the chemical's use to closed systems by January 1978, prohibiting all production by January 1979, and distribution in commerce by July 1979.

IMMINENT HAZARDS

For those chemical that present an imminent and unreasonable risk of serious or widespread injury to health or the environment, the Administrator may ask a court to require whatever action may be necessary to protect against such risk.

RECORD-KEEPING AND REPORTING

The law authorizes the Administrator to issue rules requiring manufacturers and processors of selected chemicals to report to EPA the name of each chemical, its identity, its proposed uses, estimates of production levels, description of by-products, adverse health and environmental

data, and number of workers exposed to the chemicals. Manufacturers of chemical mixtures and research chemicals are exempt from these requirements unless the Administrator determines such reporting is necessary to enforce the Act. Similarly, in the absence of a determination that reporting is necessary because of an unreasonable risk, small manufacturers are exempt from reporting except for chemicals that are subject to proposed or promulgated testing requirements or limitation under the regulatory provisions of the Act.

The Administrator is required to publish a list of all existing commercial chemicals. This list, which will be published initially by Fall 1978 and updated thereafter, will contain all chemicals manufactured or processed for commercial purposes in the United States or imported into the United States within the last three years.

The law requires any person who manufactures, processes, or distributes in commerce any chemical substance or mixture to keep records of significant adverse reactions to health or the environment that allegedly were caused by the chemical. Records concerning health effects on employees must be kept for 30 years; other records for five years.

The Administrator may determine that an unreasonable risk presented by a chemical may be prevented or sufficiently reduced by action under a Federal law not administered by EPA. If

he does, the Administrator will request the agency administering the other law to determine whether the risk exists and if the agency's action would sufficiently reduce the risk. If the agency finds no risk or takes action directed to the risk, EPA may not take any regulatory action directed to the same risk.

The law directs the Administrator to use other laws administered by EPA to protect against unreasonable risks, such as the Federal Water Pollution Control Act or the Clean Air Act, unless the Administrator determines that it is in the public interest to protect against such risks under the Toxic Substances Control Act.

ENFORCEMENT OF THE ACT

For purposes of administering the Act, the Administrator or his representative may inspect any establishment in which chemicals are manufactured, processed, stored, or held before or after their distribution in commerce. No inspection shall include financial, sales, pricing, personnel, or research data unless specified in an inspection notice.

The Administrator may subpoena witnesses, documents, and other information as necessary to carry out the Act.

Civil actions concerning violations on lack of compliance with the Act may be brought in a U.S. district court for judicial review. Any chemical substance or mixture that was manufac-

tured, processed, or distributed in commerce in violation of the Act may be subject to seizure.

EXPORTS AND IMPORTS

In the case of a chemical produced for export that presents an unreasonable risk to health or the environment of the United States, the Administrator may regulate the chemical. He may also require testing of any exported chemical if such testing is necessary to determine whether there is such a risk to the United States. If a person is exporting, or intends to export, a chemical for which data are required to be submitted under the testing or manufacturing notification sections, he must notify the Administrator. The Administrator is responsible for notifying the governments of the importing countries of the availability of such data. Similarly, if a person is exporting a chemical subject to a regulatory order or action, he must notify the Administrator who in turn will notify the appropriate governments.

With respect to imports, no chemical substance, mixture or article containing a chemical substance or mixture will be allowed into the customs territory of the United States if it fails to comply with any rule or is otherwise in violation of the Act.

DISCLOSURE OF DATA

Confidential data, such as trade secrets and privileged financial data, will be protected

from disclosure by the Administrator. All health and safety information on chemicals in commerce submitted under the Act is subject to disclosure. A person submitting other types of data to EPA may designate any part of it as confidential. If the claims of confidentiality are subject to question or if the release of such data is essential for the protection of health or the environment, the Administrator shall notify the person who submitted the data in advance of any contemplated release.

CIVIL AND CRIMINAL PENALTIES

Any person who fails to comply with any requirement made under the law may be fined up to \$25,000 for each day of violation of the law. Persons who knowingly or willfully violate the law, in addition to any civil penalties, may be fined up to \$25,000 for each day of violation, imprisoned up to a year, or both.

JUDICIAL REVIEW

Not later than sixty days after a rule is promulgated, any person may file a petition for judicial review of such rule with the U.S. Court of Appeals for the District of Columbia Circuit or with The U.S. Court of Appeals for the circuit of his residence or business.

STATE PROGRAMS

The Act authorizes \$1.5 million each year for grants to assist States to prevent or eliminate risks associated with toxic substances when

the Administrator is unable to take action. The amount of the grant shall be no greater than 75 percent of the cost of the program. In awarding grants, the Administrator shall take into account the seriousness of the health effects that are associated with the chemical substances and the extent of the human and environmental exposure to them in the State.

ACTIONS BY CITIZENS

Any person may bring a civil suit to restrain a violation of the Act by any party or to compel the Administrator to perform any nondiscretionary duty required by the Act. In addition, any person may petition the Administrator to issue, amend, or repeal a rule under the testing, reporting, or restriction sections of the Act. The Administrator has 90 days to respond to a petition. If he takes no action or denies a petition, the party has the opportunity for judicial review in a U.S. district court. In both civil suits and citizens' petitions, the court may award reasonable legal costs and attorney fees if appropriate.

The Act also authorizes compensation to citizens for reasonable attorney fees, expert witness fees, and other costs associated with rulemaking when such participation would substantially contribute to a fair determination of the issues to be resolved.

"The presence of toxic chemicals in our environment is one of the grimmest discoveries of the industrial era. Rather than coping with these hazards after they have escaped into our environment, our primary objective must be to prevent them from entering the environment at all."

President Jimmy Carter
1977 Environmental Message
to Congress

EPA REGULATIONS FOR DESCRIBED SECTIONS OF P.L. 94-469

Toxic Substances Control Act

Section of the Act	Title	CFR Reference	Publication
6	Procedure for Rulemaking Under Section 6	CFR 40, Part 750	December 2, 1977
6	Procedure for Polychlorinated Biphenols under Section 6	CFR 40, Part 750	December 2, 1977
6(a)	Fully Halogenated Chlorofluoroalkanes (Aerosols)	CFR 4, Parts 712 and 762	March 17, 1978
6(c)(4)	Compensation for Public Participation in Rulemaking Under Section 6 of the Toxic Substances Control Act	CFR 40	November 30, 1977
6(e)	Polychlorinated Biphenols (PCB's)	40 CFR Part 761	February 17, 1978
8(a)	Inventory Reporting Regulations	40 CFR, Part 710	December 23, 1977
8(d)	Health and Safety Study Reporting Regulation (Already performed on ITC's initial report).	40 CFR, Part 730	July 18, 1978
8(e)	Statement of Interpretation and Enforcement Policy; Notification of Substantial Risk	CFR 40	March 16, 1978
12(b)	Notice of Export of Polychlorinated Biphenols and Fully Halogenated Chlorofluoroalkanes under Section 12(b)	CFR 40	June 7, 1978
14	Public Information and General Provisions, Confidential Business Information	CFR 40	September 8, 1978

Chapter VIII

Other Significant

Environmental Statutes

Cultural Preservation

THE NATIONAL HISTORIC PRESERVATION ACT OF 1966

THE ARCHAEOLOGICAL AND HISTORIC PRESERVATION
ACT AMENDMENTS OF 1976

EXECUTIVE ORDER NO. 11593, PROTECTION OF THE
CULTURAL ENVIRONMENT

The National Historic Preservation Act of 1966 (amended in part in 1976) established a comprehensive program to protect cultural resources from adverse Federal actions. A National Register of Historic Places (includes archeology) was established, and Federal projects having potential impacts on properties included on or eligible for inclusion on the Register must comply with the requirements of the Act. Executive Order No. 11593 imposes additional requirements. The primary requirement of the Act is that the Advisory Council on Historic Preservation (the implementing agency) be consulted as to certain project impacts on cultural

properties and afforded on opportunity to comment on the project. Cultural resource surveys may be required as part of the consultation process.

THE ARCHAEOLOGICAL AND HISTORIC PRESERVATION
ACT OF 1974

This Act implemented by the National Park Service, establishes the requirement that Federal activities be conducted so as to avoid irreparable harm to archaeological salvage of properties adversely affected. Up to one percent of project funds may be utilized for salvage activities in certain cases.

Wildlife

THE ENDANGERED SPECIES ACT OF 1973

The Endangered Species act establishes a comprehensive program for the protection of endangered and threatened species of plants and animals. The Act establishes the U.S. Fish and Wildlife Service; National Marine Fisheries Service (marine species) as the implementing agencies. A list of endangered and threatened species on that list are afforded the protections of the Act. Section 7 of the Act requires Federal agencies to assure that their projects and other actions do not jeopardize the continued

existence of endangered and threatened species or result in the destruction or modification of the critical habitat of such species.

THE FISH AND WILDLIFE COORDINATION ACT OF 1958

This Act requires Federal agencies to consult with the U.S. Fish and Wildlife Service, the implementing agency, and with State wildlife offices as to potential impacts of their water resource projects on wildlife resources. This is to be done for the purpose of conserving such resources.

Coastal Zones, Flood Plains & Wetlands

THE COASTAL ZONE MANAGEMENT ACT OF 1972 AND THE AMENDMENTS OF 1975

This Act implemented by the Office of Coastal Zone Management, NOAA, Department of Commerce, provides assistance to coastal State governments for the development and implementation of coastal zone management plans. CZM plans have as their primary function land use management for the coastal zone to assure the orderly and environmentally sound development of that resource. Federal and federally-assisted projects including waste water treatment projects are required to be approved by the coastal State as consistent with an approved coastal zone management plan.

The recent amendments to the Act provided additional financial assistance to coastal States for new facilities and additional planning needed to offset the impacts of coastal energy development. Waste water treatment facilities may in some cases be constructed with these energy impact funds.

The impact of the Coastal Zone Management Act has yet to be fully realized. The National Oceanic and Atmospheric Administration, which administers the program, has approved Washington's State program. NOAA anticipates that Maine, Massachusetts, Rhode Island, Delaware, Maryland, North Carolina, Florida, Louisiana, Illinois, Wisconsin, Michigan and Puerto Rico, will have programs approved by the end of 1978. The remaining States are not expected to meet the program requirements set out in the Act until after 1978.

THE FLOOD DISASTER PROTECTION ACT OF 1973

The Flood Disaster Protection Act created a mandatory flood insurance program administered by the Federal Insurance Administration of the Department of Housing and Urban Development. Designated flood prone communities are required to participate in the program, which includes developing flood plain management controls, in order to remain eligible for various types of Federal assistance including grants for waste water treatment facilities. Flood insurance also must be obtained for all insurable waste

water facilities constructed in the flood prone area.

The Act provided that the Department of Housing and Urban Development (HUD) would supply flood prone municipalities with a map showing flood hazard areas within their boundaries. The maps were preliminary and were designed to identify potential hazards. A town identified as having a hazard was required to join the program within one year of the date of the map or the deadline established by HUD, whichever was later. In order to join, the municipality had to adopt the minimum land use control measures for the land delineated as having a flood hazard set forth by HUD. If a municipality did not join the program, its citizens would not get the benefit of federally subsidized flood insurance (normally unavailable privately through insurance companies) nor could a person owning land with a delineated flood hazard get a mortgage from a federally insured bank. Furthermore, Federal assistance provided to the community may not be used for other projects in the delineated area if the community is not participating in the insurance program.

Municipalities wishing to construct waste water treatment facilities in flood plains, must meet three conditions of the flood insurance legislation. First, a community with a designated flood hazard area must participate in the insurance program for project approval. Second, the proposed waste treatment facility must be designed and sited so as to conform with the local flood

plain management plan. Finally, any walled and roofed structure in the project must be insured if valued at over \$10,000.

Over 20,000 communities have been designated by the Department of Housing and Urban Development as flood prone. The number is continually rising.

WATERSHED PROTECTION AND FLOOD PREVENTION ACT

This Act is designed to prevent erosion, flood water and sediment damages in watersheds and thereby further the conservation and utilization of land and the utilization and disposal of water.

The legislation recognizes the problems of runoff and erosion control in watersheds. It provides that the Secretary of Agriculture may enter into cooperative agreements with local organizations, landowners or operators to share the cost of soil and water conservation practices. This Act is implemented with the advice and consent of the local representative of the USDA. In every case the Secretary of Agriculture may unilaterally cancel the agreement if conditions are not met.

WATER BANK PROGRAM FOR WETLAND PRESERVATION ACT

Designed to reduce soil erosion from runoff and to thereby contribute to improved water

quality and wetland protection, this Act calls for the Secretary of Agriculture to enter into cooperative agreements with landowners to share wetlands conservation costs. These programs are also conducted under the direction of the USDA agent in the local soil conservation district office.

* * *

EPA REGULATIONS FOR THE ABOVE STATUTES

CULTURAL PRESERVATION

Procedures for the Protection of Historic and Cultural Properties, 36 CFR Part 800 (1974)

WILDLIFE

Endangered and Threatened Wildlife & Plants 50 CFR Part 17

(The Fish and Wildlife Coordination Act of 1958) 43 CFR Part 17

COASTAL ZONES, FLOOD PLAINS, AND WETLANDS

41 Fed. Reg. 42878-91 (s 307), (Coastal Zones)
41 Fed. Reg. 46724-40 (S 308), (Coastal Zones)
24 CFR Chapt. 10, Subpart B, Part 1909 et. seq. (Flood Plains)

Chapter IX

Environmental Review

Procedures

The cornerstone of the environmental impact statement process, is of course, the National Environmental Policy Act. All agency actions in the impact statement process must fit into the framework established by the Act. NEPA itself has only been amended once.

Next in importance after NEPA are the guidelines issued by the Council on Environmental Quality (CEQ). Although CEQ was in existence before NEPA, its duties were expanded when the President issued Executive Order 11514. This Order requires agencies in general terms, to implement NEPA, and gives to CEQ the duty of issuing guidelines to Federal agencies for the preparation of impact statements.

Every Federal agency, no matter how large or how small, must carry out the mandate of the National Environmental Policy Act. Each agency issues regulations detailing the policies and procedures it will follow in its implementation.

These documents -- NEPA, the executive order, the CEQ guidelines and the agency regulations -- make up the main body of rules and regulations for the impact statement process.

The principle agency involved in the impact statement process is the Council on Environmental Quality. CEQ has no authority to approve or disapprove projects. Nonetheless, the Supreme Court has declared that CEQ is the expert agency and in several major cases the court halted progress on Federal projects after CEQ determined the impact statement to be deficient.

The Environmental Protection Agency (EPA) is required by law to review and comment in writing on virtually all impact statements that are issued by other Federal agencies. The Administrator of EPA must review and comment in writing on all actions subject to the impact statement requirements of NEPA that relate to any of the authorities of the Administrator -- that is, all those actions that relate to air, water, solid waste, pesticides, radiation or noise.

NEPA is primarily directed at all the Federal agencies. The heart of the impact statement process is the mandatory requirement that Federal agencies, before they reach a decision on a proposed major action which may significantly affect the human environment, analyze in detail the likely environmental consequences of the action, and make the analysis available to the public.

NEPA imposes no obligations on State or local agencies, public citizens or private industry. In practice, however, these groups are very involved in the impact statement process in two ways. First, the Federal agencies frequently require these groups to prepare environmental analyses as part of the documentation for the agency impact statements. Many agencies request such analyses from the applicants of proposed actions. The agency, in a sense, is asking the applicant to do the agency's homework prior to the writing of the impact statement itself.

The second way in which groups other than Federal agencies become involved in the impact statement process is through the opportunity to comment on the agencies' environmental analyses. CEQ and the courts treat these comments seriously. The Federal agency is required to consider and evaluate opposing points of view, and the comments themselves attach to the impact statement as it goes through the review process. A project can be halted if the comments show that the environmental analysis is clearly faulty or the project clearly unjustified.

OVERVIEW OF BASIC STEPS IN THE IMPACT STATEMENT PROCESS

The NEPA process consists of four major stages. First, a Federal agency has to decide whether a proposed action requires the preparation of an impact statement. This involves making an environmental assessment. There is no formal

procedure for the environmental assessment; each agency follows its own formula. If the agency determines that no impact statement is required, it usually summarizes the results of the environmental assessment in what is called negative declaration.

The second stage, assuming an impact statement is required, is the writing of a draft statement by the agency. Draft statements are not required by NEPA itself, but CEQ saw fit to include this requirement in its guidelines.

The third stage involves the circulation of the draft statement for comment, and the preparation of a final statement. Circulation of the draft means sending drafts to all groups directly interested in the proposed action -- other Federal agencies, State and local agencies, CEQ, the public, and the private industry groups. The Federal agency must allow these groups a reasonable time to comment on the draft, usually 45 to 60 days. The agency then must prepare the final statement by revising the draft to reflect the agency's response to all major comment received.

Finally, in the fourth stage, the agency proceeds to reach a decision on the proposed action in light of the analysis set forth in the final impact statement and other factors relevant to the decision-making process.

Three groups of activities - licensing activities, funding activities, and activities directly and wholly undertaken by the Federal government - constitute the traditional groups

of Federal activities subject to the impact statement process. In general, an impact statement will be required if the proposed action would involve the Federal government; the Federal involvement is a major action; and the action will be likely to result in significant effect on the quality of the human environment. The next question is, who decides whether a proposed action meets these requirements? Who applies these tests?

NEPA requires that the responsible official delegated to prepare the impact statement be an employee of the Federal government. The only exception is found in the Housing and Community Development Act of 1974. Section 104(h) provides that the responsible official preparing the impact statement for a community development block grant may be the applicant for the project. The applicant, usually a city or municipality, takes over the role of the responsible Federal official.

Once it is decided that an environmental impact statement is required and who will prepare the analysis, it must then be determined what range of environment effects are to be analyzed. The potential for air and water pollution must always be considered, as must other environmental factors.

The recent push by CEQ and the courts has been for impact statements to consider two questions: secondary environmental effects, and impacts on the social environment. Secondary effects can be just as damaging to the environ-

ment as primary effects, particularly in the long run. Removing the sulfur from the stack gases in a coal burning power plant may create a sludge removal problem which can create land use problems as sanitary landfills are sought out for the processed waste. NEPA is based on the principle that environmental actions do not operate in a vacuum: thus, the Act requires that a wide range of direct and indirect effects be considered.

After one forecasts environmental effects, the next step is to look critically at the results and make an assessment of them. Many impact statements on highways, for example, fail to compare the additional air pollution likely to result from the highway with the existing air pollution in the affected area and with national ambient air quality standards. An impact statement must not only forecast environmental effects but must also indicate their significance. If standards will be violated, one must attempt to evaluate by how much the standards will be violated, how frequently this will occur, and whether this is likely to be significant.

Finally, in the last step, one must analyze the alternatives that are available to the project. The alternatives that must be considered for a given action are broad - broader, in fact, than matters within the Agency's control. It has been settled law since the NRDC vs. MORTON case that the agency must consider all alternatives reasonably available to the entire Federal government, even if the alternatives go outside the agency's powers. For example, the Nuclear Regulatory Commission could consider whether a fossil

fuel plant would be a viable alternative to a nuclear power plant at a given site, even though the NRC has no power to authorize the construction of a fossil fuel plant.

CEQ, in its August 1, 1973 guidelines, set out some practical examples of the kind of alternatives that should be considered in a properly drafted impact statement:

"the alternative of taking no action or of postponing action pending further study;

alternatives requiring action of a significantly different nature which would provide similar benefits with different environmental impacts (e.g., cooling ponds vs. cooling towers for a power plant or alternatives that will significantly conserve energy);

alternative measures to provide for compensation of fish and wildlife losses, including the acquisition of land, waters, and interests therein.

In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative."

And fifth, one must analyze the alternatives available to the project.

A problem that has received considerable attention in the NEPA process is the extent to which the impact statement must contain a cost-benefit analysis of the proposed project. In the CALVERT CLIFFS case, the court stressed the need for a careful balancing of pro's and con's under NEPA:

"In some instances environmental costs may outweigh economic and technical benefits and in other instances they may not. But NEPA mandates a rather finely tuned and 'systematic' balancing analysis in each instance."

CEQ has not interpreted this to mean that the impact statement must actually contain a detailed cost-benefit analysis. Nonetheless, the impact statement must succinctly explain the nature of the interests to be served which justify the expense of environmental degradation. CEQ, accordingly, requires that the impact statement contain:

"An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action."

CIRCULATION AND REVIEW OF IMPACT STATEMENTS

CEQ has issued a list, as an appendix to its August 1, 1973 guidelines, of the Federal agencies to whom impact statements should normally be sent for comment. Draft impact statements are made available to State and local agencies as well as

interested public and private groups for comment. The impact statement is sometimes evaluated among State and local agencies accompanying a proposed action report through the State and areawide clearinghouses of the OMB A-95 review process.*

* In order to provide adequate review and coordination of applications for Federal aid for certain projects and to meet the provisions of the Intergovernmental Cooperation Act PL 90-577 the executive department has established rules and regulations governing the formulation, evaluation and review of Federal programs and projects having a significant impact on area and community development. Section 401 of the latter Act requires that "all viewpoints national, State, regional and local shall be taken into account in planning federally assisted programs and projects." Furthermore, the Act notes that all federally aided programs and projects be consistent with and further the objectives of State, regional and local plans.

The Office of Management and Budget has responsibility for implementing these congressional mandates. The rules, regulations and procedures for these reviews have been published by the agency in a series of circulars.

If the A-95 clearinghouses are unwilling or unable to handle circulation of the draft impact

statement, the Federal agency may deal directly with the State or local agency.

Circular A-95 supersedes all others and hence the title for the review process. The A-95 review system establishes a network of State, metropolitan and regional planning and development clearinghouses. These clearinghouses are able to review with a regional perspective in view of other applications and developments. The clearinghouses also have a reviewing network of local agencies and officials. All clearinghouses and reviewing agencies have thirty days to comment indicating that 1) the project has no apparent conflict with other programs or policies within their jurisdiction or 2) that issues or conflicts have arisen which will require further review and discussion.

If further review does not clarify points of conflict or question, the clearinghouse agency may attempt to arbitrate between the applicant and reviewing agency or simply pass along the comments by adding them to the application for funding. At this point, this particular review process ends and in most cases the public hearing process begins.

It is important that local officials, particularly environmental (conservation) commissions, be aware of various review opportunities and participate as much as possible. It is advantageous to determine the local reviewing agent (ask for that privilege if you have time) and be aware of all applications as they are presented.

To assure public involvement in the commenting process, CEQ has suggested that Federal agencies consider publishing a notice in local newspapers of the release of draft statements. CEQ has also suggested that agencies maintain a list of groups known to be interested in the agency's activities and directly notify such groups each time a draft statement is issued. The guidelines recommend that materials made available to the public be provided without charge whenever practicable. At the most, interested persons should be only charged the actual copying fees. The general objective is to bring the impact statement to the people, to allow all interested parties the opportunity to comment on the action at the earliest possible time.

Input on draft statements prepared for projects within the local regions can bring far off agencies into contact with local conditions. Public officials should be prepared to acquaint the public with any EIS prepared which will affect their region. NEPA has provided the vehicle for local study of alternatives and impacts; response is imperative.

The recognized usefulness of the impact statement for providing information on impacts and alternatives and the judicial recognition of this process led other levels of government to adopt similar procedures to their decision-making process. Many States are requiring such statements for agency activities either by law or by executive order. Many counties and municipalities have also adopted legal requirements for such statements.

A most significant local action alternative is the requirement of an EIS for all applications before local boards. Guidelines for such statements may well be different from those required by NEPA. However, they will provide information vital to decision-making at the local level. Once again, it is only an information procedure but it has been supported by the courts and will make proper land use planning considering secondary environmental impacts clearer at the local level.

In summary, the EIS process at all levels of government provides information and alternatives for decision-makers. Public comment is an essential ingredient. Material submitted in these documents should be substantial and comply with the guidelines and requirements of the requesting authority -- Federal, State or local.

APPENDIX

FEDERAL PROGRAMS

CLEAN WATER ACT OF 1977
(PL 95-217)

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
Key elements of program include:	Establish a continuous, long range planning process for the control of water pollution	Decide location of 201 facility
(a) standards for pollution abatement		Determine user fees
(b) provisions to require continuous long range planning processes for pollution control	Upon application, a Governor can designate regional planning areas and a planning agency for each area. Remaining areas are planned by a State agency	Assess impact of 201 facility on environmentally sensitive areas
(c) regulation through permit requirements for each discharger	An Advisory Committee must be established with at least representation of local elected officials, public interest groups, and private citizens	Determine sludge disposal method
(d) enforcement procedures and penalties to ensure compliance with new requirements	Public hearings and meetings must be held on the issues involved in each area	Participate in the regulatory and planning process through the enactment of local statutes for the implementation of areawide plans
(e) funding for construction of treatment facilities, comprehensive planning and implementation of control programs in agriculture in some areas	Governor certifies completed plans and proposes management structure based upon plan recommendations	Assist in the development of a management structure to carry out and enforce water pollution control measures
(f) full public disclosure of facts about pollution and greater public participation in the planning and regulatory process		Be represented on Advisory Committees of State and Regional 208 programs
(g) guidelines on non-point source controls, disposal and utilization of sludge		Comply with permit conditions
		Meet effluent limitations for industrial and municipal pollution point source pollution

FEDERAL RESPONSIBILITY

(h) emergency powers to deal with situations which endanger public health or safety

STATE RESPONSIBILITY

Negotiate annual agreements with the EPA Regional Administrator which identifies WQM problems and objectives, describes coordination with other environmental programs, summarizes major work program outputs and includes a detailed work plan for water quality management for the State

State agencies oversee local planning activities with regard to State water pollution priorities and goals. State agencies after plans are completed and conduct annual updates of plans

Establish a State priority list based on a needs survey for funding local waste water treatment plants

Assume permitting responsibility when approved by EPA

Review and revise water quality standards every three years

Classify lakes and develop methods to control pollution sources

MUNICIPAL RESPONSIBILITY

Participate in public hearing process during water quality standard setting

THE CITIZEN'S ROLE

Provisions are made for informing, educating, and involving the public. Participation in the development, revision, and enforcement of any standard, regulation, or program should be encouraged and assisted by the Administrator and the State

The mandated public disclosure of critical information, coupled with the citizen suit provisions in the law also allows the private citizen to play an important role in the enforcement/regulatory process

Attend public hearings on 201 facility plans, water quality standards setting, effluent limitations, load limitations for streams, and permit setting process for wastewater discharge and sludge disposal

Join Advisory Committees of the 208 program in your State or locality. Attend meetings. Watchdog program

FEDERAL PROGRAMS
THE FEDERAL SAFE DRINKING WATER ACT
(PL 93-523)

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
The U.S. Environmental Protection Agency sets standards for drinking water. Regulations are of two types: primary and secondary. Primary regulations are aimed at protecting public health taking cost into consideration. Secondary regulations are designed to protect public welfare and deal with taste, odor and appearance of drinking water. Provision is made for regulating the underground injection of fluid to prevent contamination of underground sources of drinking water. EPA designates those States in need of an underground injection control program.	States must adopt and enforce drinking water regulations at least as stringent as EPA standards. If public water systems cannot responsibly meet the standards, the States may grant variances and exemptions, but these may not pose an unreasonable risk to public health. A schedule must be established for compliance. Those designated by EPA must adopt and enforce underground injection control regulations at least as stringent as the Federal standards.	Public water systems must meet the standards set by EPA. Applications may be made for exemptions and variances if the criteria cannot be met. If public water supply system fails to comply with primary regulations or a compliance schedule it must give notice of failure to the State, consumers, and the media.

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
Research, technical assistance, training programs and funding are provided for; a National Drinking Water Advisory Council (NDWAC) is established to advise EPA on implementation of the statute. EPA may take action if States fail to administer the laws. The agency may also act to prevent or halt drinking water contamination posing an imminent or substantial health hazard if State or local authorities fail to respond.	States should provide consumers information regarding SDWA and applicable Federal, State and local regulations. States must adopt a plan to provide safe drinking water under emergency circumstances.	Local utilities should provide training to water supply operators. <u>CITIZEN'S ROLE</u> Citizens are encouraged to monitor public water supplies and inform State or Federal agencies of potential violations. Citizens can petition the State to hold hearings aimed at bringing the utility into compliance. Civil action is also provided for in the Act. Citizens should also be willing to pay what it costs to achieve safe drinking water.

FEDERAL PROGRAMS

THE FEDERAL CLEAN AIR ACT (PL 95-95)

FEDERAL RESPONSIBILITY

The Environmental Protection Agency designates air quality control regions

EPA develops air quality criteria for major pollutants - gives the levels at which these pollutants are known to have adverse affects on public health

EPA provides data on control techniques for each pollutant, includes latest technology, costs and economic feasibility of alternative control methods

EPA sets standards for ambient air quality: primary and secondary standards. EPA approves plans to implement standards

EPA may promulgate regulations if State fails to submit satisfactory plan

EPA sets standards of performance for selected new and modified stationary sources of pollution. They constitute direct emission limits on the sources

EPA oversees enforcement- EPA may enforce where States fail to do so

STATE RESPONSIBILITY

Assist EPA in designating air quality control regions; may redesignate regions from time to time. Designate areas that have not attained national ambient air quality standards (may or may not coincide with air quality control regions)

Each State in consultation with local officials must develop, implement and enforce an implementation plan to meet and maintain standards in each air quality control region within its jurisdiction

Plan must provide for attaining primary standards by 1982 or, in certain instances, 1987. Secondary standards within a reasonable amount of time

States may request EPA to set standards for industries.

States may be delegated enforcement. States may also monitor pollutant emissions, keep records and submit periodic reports

MUNICIPAL RESPONSIBILITY

Work with States in developing State implementation plans. Comment on State implementation plans at public hearings. Implement and enforce control measures for which local governments have responsibility. Planning for zoning and transportation for future facilities must be consistent with strategies for attaining ambient air quality. Participate in revisions, if necessary

Local site plan reviews and impact assessment must include air quality consideration. Particular attention should be paid to transportation plans, parking facilities, solid waste disposal and energy requirements

EPA may require individual sources to monitor pollutant emissions, keep records and submit periodic reports. Enforcement of air quality standards often falls to the municipality. Participate in long range Air Quality Maintenance Planning to preserve air quality. Participate in Transportation Control Planning if on-going

FEDERAL RESPONSIBILITY

STATE RESPONSIBILITY

MUNICIPAL RESPONSIBILITY

THE CITIZEN'S ROLE

Participate in in the development of implementation plans. Review of proposed regulations and/or proposed criteria and standards including attendance at public hearings. Monitoring (watch-dogging) discharges through requesting copies of reports and records. Civil suits may be filed when enforcement is lacking

FEDERAL PROGRAMS

THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT, AS AMENDED (PL 94-140)

FEDERAL RESPONSIBILITY

All pesticides must be classified for "general" use or "restricted" use. Restricted use pesticides may be used only by, or under the supervision of persons determined to be competent, i.e., certified applicators. EPA may classify pesticides by regulation for restricted use.

Conditional registrations may be granted by EPA as a bridge between now and reregistration of all pesticides, which was mandated by Congress in 1972 and will take more than a decade to accomplish. The Agency may also proceed with a generic standards approach to registration, which means that EPA will be making health and safety decisions on a chemical-by-chemical basis rather than a product-by-product basis as in the past.

Data protection for registrants who submit information to EPA supporting their registrations is authorized.

The use of any pesticide in a manner inconsistent with labeling instructions is prohibited.

Pesticide manufacturing and formulating plants must register with EPA. Production and sales data must be submitted annually.

EPA must develop procedures and regulations for storage and/or disposal of pesticide containers and excess pesticides.

STATE RESPONSIBILITY

States will certify applicators for use of restricted use pesticides. Federal assistance for up to 50 percent of the cost of training and certifying applicators is authorized.

States can be authorized to develop programs for issuance of State experimental use permits.

A State, with certain exceptions, may provide uses of Federally registered pesticides formulated for distribution and use within that State to meet special local needs. EPA has limited oversight authority.

States have primary use enforcement authority, which can be removed if States consistently fail to take proper action. Federal assistance to develop enforcement programs is authorized.

FEDERAL RESPONSIBILITY

EPA may issue experimental use permits, conduct research on pesticides and alternatives, and monitor pesticide use and presence in the environment.

States are authorized to issue registrations for pesticides to meet special local needs.

Enforcement procedures, including stop sales, use and removal orders, and penalties to ensure compliance are prescribed.

STATE RESPONSIBILITY

FEDERAL PROGRAMS

RESOURCE CONSERVATION AND RECOVERY ACT

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
Provide technical assistance (Resource Conservation and Recovery Panels) to State and local governments upon request--Sec. 2003	May assign personnel to serve on panels--Sec. 2003	May assign personnel to serve on panels--Sec. 2003
Identify and list hazardous wastes--Sec. 3001	May provide consultation to EPA concerning the development of identifying criteria--Sec. 3001(a)	May testify at public hearings concerning the development of State hazardous waste program --Sec. 3006(b)
Promulgate regulations applicable to the generation, transportation, treatment, storage, and disposal of hazardous waste--Sec. 3002, 3003, 3004, 3007	Governor may petition the Administrator to identify or list a material as hazardous waste--Sec. 3001(c)	May provide consultation to EPA concerning the development of State plan guidelines--Sec. 4002(b)
Develop and issue permits for facilities which treat, store, or dispose of hazardous wastes--Sec. 3005	May provide consultation to EPA concerning the development of hazardous waste regulations--Sec. 3002, 3003(a), 3004	May provide consultation to EPA concerning the development of regional identification guidelines--Sec. 4002(a)
Publish guidelines to assist States in the development of State hazardous waste programs--Sec. 3006(a)	May provide consultation to EPA concerning the development of State hazardous waste program guidelines--Sec. 3006(a)	May provide consultation to State concerning regulations identifying regional solid waste management areas--Sec. 4006(a)
Authorize State hazardous waste programs--Sec. 3006(b)	May develop, administer, and enforce State hazardous waste program, including regulations and permit system, if equivalent to Federal program and approved by EPA--Sec. 3002(g), 3005(c)(d), 3007	May apply for financial assistance if the program is in compliance with any applicable State or regional plan, section 1008, and subtitle C--Sec. 4008(a)(2)(B)
Make grants to States to assist in developing and implementing authorized State hazardous waste programs--Sec. 3011		Cooperate in identifying special communities with the State--Sec. 4008(e)
Publish guidelines to assist in the development and implementation of State solid waste management plans--Sec. 4002(b)	May apply for program--development funds distributed according to criteria developed by Administrator--Sec. 3011(b)	

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
Make grants to the States for the development and implementation of State solid waste management plans--Sec. 4008(a)(1)	May provide consultation to EPA concerning the development of State plan guidelines--Sec. 4002(b)	Cooperate in developing model codes, ordinances, and status to provide for sound solid waste management--Sec. 8003(d)
Approve or disapprove State solid waste management plans and provide grants to States for implementation--Sec. 4007	Must develop State solid waste management plan according to guidelines and submit to EPA for Sec. 4007(b) funds--Sec. 4003, 4007	May apply for resource recovery system grants of up to 75 percent of a project's cost if qualified--Sec. 8006
Publish guidelines for identifying areas with common solid waste management problems for regional planning--Sec. 4002(a)	May provide consultation to EPA concerning the development of regional identification guidelines--Sec. 4002(a)	
Promulgate criteria for defining which disposal facilities are classified as open dumps and which are not--Sec. 4002(a)	Promulgate regulations identifying regional solid waste management areas--Sec. 4006(a)	
Publish an inventory for all open dumps--Sec. 4005(b)	Identify agencies and their responsibilities for development and implementation of State plan--Sec. 4006(b) and (c)	
Provide financial assistance to State and local authorities for implementation of solid waste programs--Sec. 4008(a)(2)(A)	May provide consultation to EPA concerning the criteria for classification of disposal facilities--Sec. 4004(a)	
Provide technical assistance to State and local governments for development and implementation of State plans--Sec. 4008(d)	State plan shall prohibit the establishment of open dumps, and require that all solid waste be either utilized for resource recovery or disposed of in an environmentally sound manner--Sec. 4004(b)	
Identify special communities and make grants to improve or construct solid waste disposal facilities with special communities--Sec. 4008(e)		

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>MUNICIPAL RESPONSIBILITY</u>
Identify qualified rural areas and make grants for facilities and equipment (excluding land) to the States to assist rural areas in complying with environmental legislation--Sec. 4009	State plan shall require that all open dumps listed in the inventory be either closed, or upgraded in compliance with a timetable specified within the plan--Sec. 4005(c)	
Recommend model codes, ordinances and statutes providing for sound solid waste management--Sec. 8003(d)	May apply for financial assistance if it has complied with subtitle C and if the program is in compliance with any applicable State or regional plan and with Section 1008 guidelines--Sec. 4008(a)(2)(B)	
Make grants to State and local agencies for the demonstration of resource recovery systems and the construction of improved solid waste disposal facilities--Sec. 8006	Cooperate in identifying special communities within the State--Sec. 4008(e)	
	May apply for grants to assist qualified rural communities in complying with environmental legislation--Sec. 4009	
	Cooperate in developing model codes, ordinances, and statutes for sound solid waste management--Sec. 8003(d)	
	May apply for resource recovery system grants of up to 75 percent of a project's cost if qualified--Sec. 8006	

FEDERAL PROGRAMS

THE TOXICS SUBSTANCES CONTROL ACT (PL 94-469)

<u>FEDERAL RESPONSIBILITY</u>	<u>STATE RESPONSIBILITY</u>	<u>THE CITIZEN'S ROLE</u>
Authorizes EPA to obtain data from industry on selected chemical substances which may present unreasonable risk of injury to health or the environment.	May obtain grants to establish and operate State programs to prevent or eliminate unreasonable risks associated with toxic substances when EPA is unable to take action.	Provides for public notification and involvement in rulemaking. In addition, citizens may petition EPA to issue, amend or repeal any rule. They may also bring civil suit to restrain violations of the Act or to compel the Agency to perform any nondiscriminatory duty.
Establishes a committee to make recommendations to EPA respecting toxic substances and mixtures which should be given priority consideration.		Authorizes compensation to citizens for reasonable attorney's fees, expert witness fees, and other costs associated with rulemaking when the participation would substantially contribute to a fair determination of the issue to be resolved.
Provides for regulation of hazardous substances or mixtures if they present an unreasonable risk to health or the environment. Compensation may be provided for public participation in rulemaking in order to reach a fair determination of the issues.		

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