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A MUNICIPAL COMPLIANCE PLAN FOR THE CITY OF WARWICK, RHODE ISLAND: AN URBAN COMMUNITY'S STRATEGY FOR FULFILLING THE REQUIREMENTS OF THE CLEAN WATER ACT

Dennis A. Vinhateiro
University of Rhode Island

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CITY OF WARWICK, RHODE ISLAND:
AN URBAN COMMUNITY'S STRATEGY FOR
FULFILLING THE REQUIREMENTS OF THE
CLEAN WATER ACT
BY
DENNIS A. VINHATEIRO

A RESEARCH PROJECT SUBMITTED IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF
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UNIVERSITY OF RHODE ISLAND

1986

SHORT TITLE:

MUNICIPAL COMPLIANCE PLAN:

WARWICK, R.I.

MASTER OF COMMUNITY PLANNING
RESEARCH PROJECT
OF
DENNIS A. VINHATEIRO

APPROVED:

MAJOR PROFESSOR

John J. Kupa

ACKNOWLEDGED:

DIRECTOR

Howard H. Foster

UNIVERSITY OF RHODE ISLAND

1986

ABSTRACT

In 1984, the United States Environmental Protection Agency (EPA) issued the National Municipal Policy which set forth EPA's position on ensuring that publicly owned wastewater treatment facilities meet pollution control deadlines under the Clean Water Act. The Act requires all publicly owned treatment works (POTWs) to meet the statutory compliance deadlines and achieve the water quality objectives of the Act, whether or not they receive federal funds. The deadline for POTWs to meet secondary effluent limitations has been established by the Act as 1 July 1988.

The Warwick, Rhode Island Wastewater Treatment Facility was identified as requiring upgrading of existing facilities to meet secondary effluent limitations. For those communities whose facilities needed upgrading to meet the statutory requirements, the policy dictated the development of a Municipal Compliance Plan.

This research project investigates the federal, state and local roles in the evolution of a compliance strategy for the City of Warwick. When the National Municipal Policy was announced, the City of Warwick was scheduled to receive less than half of the estimated cost of necessary improvements to its treatment facility from federal and state funding sources, and had no specific plan for financing the balance of required

construction. The political and institutional actions over the intervening two years, which have enhanced the feasibility of the City meeting the 1 July 1988 deadline, are documented and examined. The chief results of these actions have been increased levels of federal and state assistance and the approval of local bond initiatives.

From the information presented, a Municipal Compliance Plan is developed for the City of Warwick. The Plan describes the necessary treatment technologies and estimated costs, outlines the proposed sources and methods of financing the required improvements, and provides a schedule for achieving compliance as soon as possible. Under the proposed Plan, it is possible for the City to complete the required construction activities by May 1988, thus complying with the requirements of the Clean Water Act.

However, an examination of the expected improvements in water quality in the Pawtuxet River, as a result of this and similar undertakings in West Warwick and Cranston, falls short of the original objectives of the Clean Water Act. In conclusion, the on-going public investment of more than eighty-five million dollars to upgrade the the three existing wastewater treatment facilities will not significantly improve water quality in the Pawtuxet River. Rather, it is an attempt by governmental actors at all levels to hold the line at current levels of pollution.

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CHAPTER I

THE FEDERAL ROLE

The Federal Water Pollution Control Act Amendments of 1972

In 1972, the United States Congress responded to the need to strengthen Federal and State efforts to control the discharge of pollutants into the nation's waters and established a comprehensive national approach to water pollution control. The Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) were a complete rewrite of existing water pollution control laws and stand as one of the great landmarks of environmental legislation.

Section 101 of Title I of the Act boldly set the nation's course toward clean water by clearly defining the national goals as follows:

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

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

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

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

(4) it is the national policy that Federal financial assistance be provided to construct publically

owned waste treatment works;

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

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans...."¹

A number of tough but workable measures were incorporated into the law to bring the nation step by step toward the goals outlined. Chief among these were the National Pollutant Discharge Elimination System (NPDES), which required water polluters to obtain a permit and agree to a schedule of pollution abatement measures; the Construction Grants Program, which provided funding for communities to build municipal wastewater treatment facilities; and the State and Areawide Water Quality Management Program, which fostered waste treatment planning and management strategies.² The Administrator of the Environmental Protection Agency (EPA) was the individual delegated the responsibility to administer the Act.

The Act required publically owned wastewater treatment facilities to meet secondary effluent limitations by 1 July 1977.³ These requirements were to be enforced nationwide through the NPDES permit system for every point source discharging into navigable waters. An NPDES permit generally contains conditions designed to assure compliance with water quality standards and effluent limitations. The level of treatment required by a permit depends on the type and amount

of pollutants permitted to be discharged.

The Section 201 Construction Grant program represented a significantly strengthened program of grant assistance to municipalities for the construction of wastewater treatment facilities to meet these effluent limitations and other requirements of the law. The Federal share of eligible project costs was raised to seventy-five percent and \$20.75 billion was authorized for grants for the design and construction of treatment facilities under the new law.⁴

The Section 201 Construction Grants program provided financial grant assistance to municipalities using a three step approach: Step I, facilities plans and related elements; Step II, preparation of construction drawings and specifications; and Step III, building of a treatment facility or sewer system.

The fundamental objectives of the nation's water pollution control effort have remained essentially intact since the 1972 Amendments, although there have been several additional amendments. The most important changes were enacted in 1977 and 1981.

The Clean Water Act

The 1977 Amendments, known as the Clean Water Act (Public Law 95-217) authorized an additional \$25.5 billion for the construction grants program.⁵ In addition, it established a program for encouraging innovative and alternative approaches to wastewater treatment and initiated a

mechanism for turning over more of the management of grant programs to the States. For municipalities which had not been able, despite good faith efforts, to meet the 1977 deadline for secondary treatment because of inadequate funding, the deadline was extended to 1 July 1983.⁶

The Municipal Wastewater Treatment Construction Grant Amendments of 1981

The Municipal Wastewater Treatment Construction Grant Amendments of 1981 (Public Law 97-117) proposed sweeping changes in the Federal role in the Construction Grants Program. No new Step I or Step II grants would be forthcoming; instead, communities could seek partial reimbursement concurrent with a Step III grant application. In addition, the Federal share for grants awarded after 1 October 1984 was reduced from seventy-five to fifty-five percent and annual authorizations were limited to \$2.4 billion per year for the fiscal years 1982-1985.⁷ And again, the deadline for municipalities to achieve secondary treatment effluent limitations was extended, this time, to 1 July 1988.⁸

The National Municipal Policy

On 23 January 1984, William D. Ruckelshaus, Administrator of the United States Environmental Protection Agency, announced his approval of a National Municipal Policy to insure that publically owned wastewater treatment facilities meet pollution control deadlines under the Clean Water Act.⁹ The Act specifically required all publicly owned treatment

works (POTW's) to meet the statutory compliance deadlines and achieve the water quality objectives of the Act, whether or not they receive federal funds.

The Policy called for the States to develop strategies for bringing municipal wastewater treatment facilities into compliance as soon as possible but no later than 1 July 1988. Where extraordinary circumstances made it impossible to meet the 1 July 1988 deadline, the State or the EPA Regional Office would work with the municipality to set an enforceable fixed-date schedule to achieve compliance in the shortest, reasonable period of time thereafter, including appropriate interim pollution abatement measures.

CHAPTER II

THE STATE ROLE

The role of state governments in carrying out the objectives of the Federal Water Pollution Control Act of 1972, as amended, has been an ever-increasing one. Although the intent to delegate the administrative responsibilities for the various mechanisms and programs under the Act to the states was set forth in the original amendments in 1972, increased pressures on states to assume these responsibilities were inherent in the New Federalism of the 1980's.¹

The 208 Water Quality Management Plan

For the purpose of this investigation, primary emphasis is placed on the State's role under Title II of the Act which addresses grants for the construction of wastewater treatment works. Title II, Section 208 of the Act, established a planning process whereby various regions would develop management plans directed at local water quality problems. Because of Rhode Island's small size, the entire State was designated as a single planning area.

The 208 Water Quality Management Plan for Rhode Island was initiated in June 1975, and the final plan was issued in August 1979. The principal objective of the study was to determine where water quality, suitable for

fishing and swimming, could be attained and the actions necessary to achieve these water quality goals. One of the major factors influencing the attainment of the water quality goals was the need for sewers and other wastewater treatment facilities.

In general, the 208 Plan concluded that water quality in Rhode Island was very good; however, there were several notable exceptions. Major water quality problem areas were identified as the Providence River, Upper Narragansett Bay, and the Pawtuxet River.² Improvements to municipal wastewater treatment facilities contributing to the degradation of water quality within these designated water quality problem areas were recommended as the priority targets for Construction Grant funds to move Rhode Island toward the goals of the Clean Water Act.³ At the same time, it was apparent that after these improvements fishable and swimable waters probably still would not be attained due to impacts of nonpoint sources of pollution such as urban runoff and landfill leachates.⁴

For the Pawtuxet River, the 208 Plan recommended upgrading the three existing public treatment facilities to provide advanced treatment (nitrification) and dechlorination during the summer months. However, following the 1981 amendments to the Act, specifically the reduction in both federal levels of funding and the scope of project eligibility, the State followed a new national trend to further evaluate the cost effectiveness of required levels of treat-

ment.⁵ In 1982, the State removed advanced treatment and dechlorination as recommendations prior to further assessment.⁶ Currently, the State and the EPA are sponsoring studies aimed at determining the costs and benefits of advanced levels of treatment along the Pawtuxet River.

The Priority Determination System

In order to effectuate the recommendations of the Areawide Water Quality Management Program, the Act requires individual states to determine the priority for allocating the state's allotment of Construction Grants funds under Title II. Under Section 106 of the Act, states are required to establish a system for priority determination designed to achieve optimum water quality consistent with the goals and requirements of the Act.⁷

The Rhode Island Priority Determination System describes methods and procedures used in determining which wastewater treatment facilities are to be funded for any allotment of Federal Construction Grants funds received under Title II of the Act, and State funds under Section 46-12-33 of the General Laws of Rhode Island, 1956, as amended. The Rhode Island General Laws empower the State to contribute up to fifteen percent of the eligible costs of planning, design and construction of projects listed on the priority list.

The Director of the Rhode Island Department of Environmental Management annually prepares a ranked priority

list of Construction Grants projects for which a municipality or other eligible entity has requested funding and for which federal and state funds are expected during a five-year planning period, starting at the beginning of the next fiscal year. This project priority list consists of a fundable portion and a planning portion. The fundable portion includes those projects planned for award during the first year of the five-year planning period. The planning portion includes all projects which may receive funding during the last four years of the planning period.

Projects on the priority list are ranked based on a ratings system which establishes a relative value for each project based on its ability to correct pollution problems. Projects are assessed based on their ability to eliminate pollution detrimental to the following factors: 1) shell-fishing and drinking water supply; 2) bathing and recreation; 3) propagation of fish and aquatic life; and 4) industrial uses. Additional factors considered are the necessity of the project to prevent nuisance conditions where no sewers are available and the existing population to be served.

Warwick's Allocations Under the Priority
Determination System

The allocation of 201 funds for the construction of Warwick's Wastewater Treatment Facility were first included in the 1979 Rhode Island Construction Grants Priority List.⁸ At that time, the anticipated cost for the entire upgrading

was \$5.5 million, and the project was included in the planning portion of the Priority List for Phase I construction in fiscal year 1981 and Phase II in fiscal year 1982.⁹ Of the total \$5.5 million of grant eligible costs, \$2.063 million of fiscal year 1981 funds, and \$2.062 million of fiscal year 1982 funds were programmed as the seventy-five percent federal share of the project.¹⁰

In the 1980 Rhode Island Construction Grants Priority List, the estimated funding levels had remained the same; but the project had been pushed back a year reflecting the status of the City's Facility Plan approval. The City was now scheduled to construct facilities with the use of 201 funds during fiscal years 1982 and 1983.¹¹ The City's position on the planning portion of the Priority List remained unchanged in the final Rhode Island Construction Grants Priority List for 1981 published in September of 1980.

The 1981 Amendments to the Clean Water Act, which dictated reduced authorization of 201 funds through fiscal year 1985 and later approval of Warwick's Facility Plan in August of 1981, impacted both the timing and sequence of planned funding for the proposed upgrading. Early in 1981, the City was directed by the State to further segment the proposed upgrading of Warwick's Wastewater Treatment Facility as a result of the then anticipated reduction in Congressional authorizations. The decision to now proceed with construction under three separate biddable phases, resulted in an increase in the time required for the development of

plans and specifications; and, as a result, the City's position on the planning portion of the Priority List was again pushed back another year. The City was now scheduled to receive \$2.571 million in fiscal year 1983, \$2.365 million fiscal year 1984, and \$0.820 million in fiscal year 1985. The total funding over the three-year period represented seventy-five percent of the estimated eligible costs for the three separate phases of the project.

The increased levels of the individual fiscal year allotments resulted from updated construction cost estimates which were, in part, due to the additional segmenting of the project. The total estimated cost of the upgrading of the Warwick Wastewater Treatment Facility was now, in the summer of 1981, almost \$7.7 million. These funding allocations, and the fiscal years for which they were allocated, remained unchanged through the publication of the final 1984 Rhode Island Priority List.

Following the 1981 amendments to the Clean Water Act (Public Law 97-117), specifically Section 17 which reduced the level of federal participation in 201 construction projects from seventy-five percent to fifty-five percent for those projects awarded after September 30, 1984, there was a concerted effort on the part of the state and communities to "grandfather" as many projects as possible at the seventy-five percent level of funding. As a result, the State of Rhode Island did not continue to advance the construction of the upgrading of the Warwick Wastewater Treatment Facil-

ity in the Planning Portion of the Priority List even though the City was not prepared to proceed with the first phase of construction by the end of fiscal year 1983. Instead, the State held Warwick's fiscal year 1983 funds in anticipation of a grant award prior to the end of the 1984 federal fiscal year (September 30, 1984). By so doing, both West Warwick and East Greenwich were enabled to secure a position, albeit limited funding, on the 1984 fundable portion of the Priority List.¹³

When in January of 1984, William D. Ruckelshaus announced the National Municipal Policy, the City of Warwick was in the process of completing the Step II Design of the upgrading of the Warwick Wastewater Treatment Facility. Revised construction estimates, at that time indicated a total project cost of between ten and eleven million dollars. At the same time, the total anticipated combined federal and state grant funds available for this project was \$5.756 million.

CHAPTER III

CITY OF WARWICK WASTEWATER FACILITIES PLAN

Introduction to the Facilities Plan

The Wastewater Facilities Plan for the City of Warwick, Rhode Island was completed and adopted by the Warwick Sewer Authority in 1979 and received final approval from the Environmental Protection Agency in 1981. The Facilities Planning effort was funded through a Step I Grant under the Section 201 Construction Grants Program with Federal and State sources contributing ninety percent of the cost.

The goal of the Facilities Plan was to establish an environmentally sound and economically feasible program of meeting the City of Warwick's wastewater treatment and disposal needs over a twenty-year planning period. To accomplish that goal, the Facilities Plan provided an analysis of needs, the development of alternatives, an economic and environmental analysis of the alternatives, and a recommended plan of action.

The City of Warwick first embarked on a program of construction of a system of public sewers in 1963. The Warwick Wastewater Treatment Facility, along with the first phase of interceptor and lateral sewers were dedicated in 1965. From 1965 to the time that the Facilities Plan was

being developed, the City expanded the collection system through periodic bond issues and a limited number of Federal programs available for those purposes.

The Warwick Wastewater Treatment Facility was constructed in an industrial area in the northwestern quadrant of the City which, at the time, was relatively undeveloped. The location of the facility, although conducive to initially providing services for continued growth of the City's industrial base was geographically on the opposite side of the City as the oldest and most heavily developed residential sections. The expansion of the collection system was, therefore, in a general easterly direction with priority given to developed areas in proximity to the existing system as it expanded. As a result, at the time of publication of the Facilities Plan approximately twenty-five percent of the population of the City had public sewer service available.¹

Principal Findings

It was not altogether surprising then that the principal findings of the Facilities Plan were as follows:

1. That Warwick has, far and away, the largest number of on-site sewage disposal systems in New England.
2. That failure of these on-site systems is epidemic now and that eventually all of them will fail.

3. That on-site systems that are close to shell-fishing and swimming waters can endanger public health if the systems were not specifically designed for their sensitive locations and if they are not carefully maintained.
4. That very little is really known as fact about how or why these on-site systems fail.
5. That replacement of all the on-site systems that have failed (or can be expected to fail in the foreseeable future) would cost upwards of \$125,000,000 with over \$100,000,000 of the total not eligible for EPA assistance.
6. That it appears possible to rehabilitate most of the on-site systems for about twenty-five percent of the cost of public sewers.
7. That large scale testing, in the field under actual use conditions, will be necessary to determine if on-site system rehabilitation is really feasible.
8. That long-term experience is the only sure way to determine if such rehabilitation merely buys a few more years of on-site system service or if it can produce a long-lived on-site system.
9. That there are parts of the City of Warwick, even if on-site system rehabilitation does prove to be practical as a general rule, where public sewers will still be necessary and/or desirable.

10. That the areas of the City of Warwick, in which sewers appear to be necessary and/or desirable (whether on-site systems can be rehabilitated or not), include residential areas with large numbers of very small lots (generally less than 5,000 square feet per dwelling), with high percentages of non-owner and low income residents and with substantial histories of on-site overflow complaints, and commercial and industrial areas whose intensive development is important to the balanced growth of the City as a whole.²

Alternative Solutions

As a result of these findings, the Facilities Plan delineated four basic alternatives for meeting the long-term wastewater needs of the City. The first alternative was for the City to do nothing as a city wide sewer program. This alternative required no major appropriations of public funds and no new major bond issues. It implied that the costs of repeated pumping or reconstruction of on-site systems rest on the individual property owners, and that homeowners guess at how best to take care of their problems. For the Warwick Sewer Authority, it meant upgrading the existing public sewer system to meet current environmental standards and expanding the existing system only in response to emergencies.

The second alternative was for the Warwick Sewer Authority, with assistance from the Environmental Protec-

tion Agency, to concentrate on developing low-cost, on-site rehabilitation methods wherever feasible and adding public sewers only to areas where on-site system rehabilitation was not feasible. This implied that the Warwick Sewer Authority, in conjunction with the Environmental Protection Agency and the State of Rhode Island, test currently-theorized on-site disposal system rehabilitation methods under actual field conditions, determine which method or methods are most cost effective and develop techniques for insuring that cost effective rehabilitation can be applied throughout the city. In areas where rehabilitation did not appear to be feasible, the Warwick Sewer Authority would need to provide public sewers as quickly as possible; and, the voters of the City would have to provide bond authorization for the balance of the system's cost not eligible for federal or state aid.

The third alternative presented for meeting the City's needs was to build a city-wide sewer system as quickly as possible. For the City of Warwick, this alternative required the authorization of a very large bonded indebtedness, the acceptance of very substantial increases in local taxes, and the need to get federal and state approval to allow a significantly larger treated wastewater discharge to the Pawtuxet River or approval for one or more additional wastewater treatment facilities at the other locations in the City. For the citizens of Warwick, no further concerns about sewage.

The last alternative proposed the construction of a

city-wide sewer system at the then existing construction rate of about \$1.5 million per year. This implied the City would need to authorize substantial bonded indebtedness spread over a long period of time and ultimately seek federal and state approval for increased effluent discharges. For residents, this meant getting public sewers at some future time over the next forty to sixty years.

The Selected Alternative

An analysis of the environmental impacts and the economic costs of the various alternatives led to the adoption of the second alternative as the best solution for meeting the City's needs over the twenty-year planning period.³ Most importantly, this alternative allowed the City to provide wastewater treatment for its residents without hydraulically expanding the existing wastewater treatment facility.

The Facilities Plan designated eight specific areas within the City where, due to the density of development and the incidence of on-site system failures, the provisions of public sewers was seen as the only feasible means of solving the existing problems. By limiting public sewer expansion to these areas, the anticipated increases in flow to the system would not overtax the design capacity of the existing treatment facility over the planning period.⁴ As a result, the Facilities Plan only called for a general upgrading of the existing wastewater treatment facility in order to assure that the facility would be able to meet future effluent limi-

tations. Major process changes were limited to solids handling and septage treatment. In addition, the construction of a major dike to protect against a one hundred-year storm event was proposed.

Plan Implimentation, 1979-Present

In the seven years since the Warwick Sewer Authority adopted the Facilities Plan, the City has made noteworthy strides towards its implimentation. Voter approval of bond referenda questions in 1979 and 1983 have provided for system expansion to areas designated in the Plan. Approximately thirty-five percent of those areas have been serviced since 1975.⁵ In addition, one other area of the City not originally designated to receive public sewers under the Facilities Plan, but later added by amendment, has been sewerred.

Funds from the 1983 bond authorization were also set aside to establish a revolving loan fund to finance and subsidize the reconstruction of on-site septic systems in areas of the City where a specific time frame for system expansion has not been established. The City's On-Site Rehabilitation Program, one of the first in the nation, was initiated following a successful pilot program funded as an Inovative and Alternative approach to meeting wastewater needs under the 201 Program.

Following Federal and State approval of the Facilities Plan in 1981, the Warwick Sewer Authority proceeded

under a 201 Step II Design Grant with the development of plans and specifications for the upgrading of the wastewater treatment facility. The Step II grant was limited to the upgrading of the treatment facility due to the fiscal constraints imposed on the State's fundable portion of the Priority List by federal budget cuts and reduced appropriations by the United States Congress. In addition, shortly after the initiation of the design phase, the Warwick Sewer Authority was advised to design the facility upgrading first in two and then in three separate biddable phases to fit anticipated levels of federal funding under the Construction Grants Program.

CHAPTER IV

THE WARWICK WASTEWATER TREATMENT FACILITY

Existing Facilities

The Warwick Wastewater Treatment Facility was constructed in 1964 and 1965, and the facilities have remained relatively unchanged since that time. The plant employs an activated sludge process to provide secondary treatment for the City of Warwick's domestic and industrial wastewater prior to its discharge to the Pawtuxet River. Originally designed for an average daily flow of 5.2 million gallons, the plant presently discharges an average of approximately 2.7 million gallons per day.¹

To accomplish the treatment objective, five process methods are utilized. These include: 1) preliminary treatment; 2) primary treatment; 3) secondary treatment; 4) chlorination; and 5) sludge treatment. In addition, septage wastes are subjected to treatment independent of the normal flow of the wastestream through the plant. (Figures 1 and 2)

The Warwick Wastewater Treatment Facility was designed by C.E. Maguire, Inc. Major process units were designed for a twenty-year life expectancy which is being realized at this time. Although the plant has a history of operating at a high level of efficiency in terms of pol-

Figure 1. Wastewater Treatment Facility, Warwick, R.I.

Figure 2. Wastewater Treatment Facility, Warwick, R.I.--Process Diagram

lutant removal, equipment breakdowns and failures have led to violations of the facility's discharge permit.² In addition, the facility has been innundated by floodwaters from the Pawtuxet River on numerous occasions. During these flood events, major process units have been underwater resulting in raw sewage being discharged to the Pawtuxet River.³ Flooding has also caused significant damage to the process units themselves and total disruption of the biological medium used in the secondary treatment process.⁴ The repairs of physical damage, and or the restoration of the biological medium, has often taken weeks to accomplish leaving the facility out of compliance with its discharge permit for the interim period. The quality of the effluent has also suffered over the years as the result of periodic toxic shock loads reaching the treatment facility, as well as significant solids loadings from septage dumpings.

Improvements Necessary for Future Compliance

In order to assure that the facility will be able to meet the future effluent limitations imposed by its' NPDES Permit, the City of Warwick's Facility Plan recommends the general upgrading of the existing process units along with a limited amount of major process changes.

The following outline represents, in general terms, those improvements deemed necessary by the design engineer to insure future compliance by the Warwick Wastewater Treatment Facility.

SYSTEM PRIORITY
FOR
CONSTRUCTION
WARWICK WASTEWATER TREATMENT FACILITY

Item 1 FLOOD PROTECTION:

- Construction of dike
- Construction of new chlorine contact chamber
- Installation of new chlorine dissolution chamber
- Demolition of existing chlorine contact chamber
- Installation of new outfall sewer, meter, and outlet chamber with valving
- Revise where needed site drainage and storm flow piping with valving
- Provide storm flow and effluent pumping
- Compensatory excavation and landscaping for stabilization
- Electrical generation with load shedding

Item 2 INLET/PRELIMINARY FACILITIES:

- Installation of comminutor, grit removal, and collection systems
- Construction of building to cover inlet facilities and grit storage area
- Modifications to channels

Item 3 SEPTAGE FACILITY:

- Installation of preliminary treatment and holding system
- Odor control system
- Refurbishing of electrical control panels (Opera-

tions Room)

Item 4 SOLIDS HANDLING:

- Installation of sludge dewatering equipment
- Installation of scum concentrator
- Process piping change for sludge wasting
- Installation of cover on open digester and refurbishing gas collection equipment

Item 5 SECONDARY TREATMENT:

- Construction of two new aeration tanks
- Installation of new air diffuser system
- Installation of new blower system and piping

Item 6 SECONDARY CLARIFICATION:

- Installation of new tank and pumping station
- Replacement of pumping equipment
- Plant water system

Item 7 PRIMARY TREATMENT:

- Replacement, repair, and/or refurbishing of equipment
- Automated scum collection system

Item 9 CONTROL BUILDING:

- Refurbishing control building
- Construction of lab wing & new operations control room
- Landscaping
- Installation of roads and sidewalks
- Addition of garage units to utility building⁵

CHAPTER V

THE EVOLUTION OF A MUNICIPAL COMPLIANCE STRATEGY

Political and Institutional Actions Leading to a Draft Compliance Plan

The general goal of the National Municipal Policy was to establish enforceable compliance schedules for affected municipalities by 30 September 1985. To implement this goal, EPA Regional Offices were directed to cooperate with the States under their jurisdiction to develop strategies that described how non-complying facilities would be brought into compliance.

In April 1984, the Rhode Island Municipal Compliance State Strategy was compiled and mailed to local governments operating a wastewater treatment facility. That document identified Warwick as one of eleven communities in Rhode Island which were out of compliance with their NPDES Permit and required to develop a Municipal Compliance Plan. Following distribution of the State Strategy, the City was advised of a 30 June 1985 deadline for submission of a Municipal Compliance Plan.

During the balance of 1984, the City of Warwick took no formal action toward the development of a Municipal Compliance Plan. The primary reason was that the then Mayor of Warwick, Joseph W. Walsh, was an announced candidate for

Governor of Rhode Island. Mayor Walsh was unwilling to establish specific fiscal commitments regarding Warwick's bonded indebtedness for future sewer facilities construction at that point in his tenure as Mayor.

By October 1984, EPA transmitted to the Warwick Sewer Authority a grant offer in the form of an agreement for the first phase of construction at the Warwick Wastewater Treatment Facility. The grant offer was for \$4,769,305 and represented seventy-five percent of a revised estimated cost of \$6,359,071 for Phase I construction and associated engineering services. Attached to the grant offer was a list of twenty-six Special Grant Conditions. Special Grant Condition Number twenty-five dictated a specific schedule for the remainder of the proposed upgrading necessary to meet the enforceable requirements of the Clean Water Act. The schedule required completion of construction and achievement of compliance with the City's NPDES Permit by July 1988.¹

Mayor Walsh's reluctance to commit the future Mayor of the City to a specific policy regarding the upgrading of Warwick's Wastewater Treatment Facility extended to his influence on the Warwick Sewer Authority to postpone acceptance of the grant offer until a new Mayor was inaugurated. In November 1984, Francis X. Flaherty was elected Mayor of the City of Warwick. During the transition period between his election and inauguration, Mayor-elect Flaherty was apprised of the pending grant offer and the Special Grant Conditions. Shortly following Mayor Flaherty's inaugura-

tion in January 1985, the grant offer was executed by the Warwick Sewer Authority.

At this time, the City had one million dollars earmarked from a 1983 bond issue for the local share (ten percent) of the cost of the entire upgrading. The one million dollars was specifically identified as reserved for this purpose in promotional material and press releases developed by the City prior to the bond referendum question going to the voters in June 1983. Comparing the total federal and state funds available under the construction grants program, and the one million dollar local appropriation to the Spring 1985 project cost estimate of thirteen million dollars for the entire upgrading, the City was left looking at a shortfall of approximately five million dollars.

The Warwick Sewer Authority received and opened bids for Contract 39A in March 1985. The low bid of \$5.89 million exceeded the engineer's recent estimate and brought the total cost of the project to approximately \$6.85 million including a five percent contingency. In order to provide the seventy-five percent federal share of the project, fiscal year 1983, fiscal year 1984, and a portion of the fiscal year 1985 Priority List Funds were appropriated. When the dust had settled on Contract 39A, the City was left with less than \$615,000 in future anticipated federal funding for the remainder of the upgrading.

In light of the fact that the Sewer Authority accepted the original grant offer, they were bound by its

conditions to meet the completion date of July 1988. The Sewer Authority, in conjunction with the City Administration, immediately commenced planning for a major bond referendum question to be put before the voters of the City in the Special Election scheduled for November 1985. At the same time, a close scrutiny of other projects listed in the fundable portion of the Priority List was initiated.

In April, it was discovered that the Narragansett Bay Water Quality Management District Commission had approximately \$2.0 million earmarked for an interceptor sewer reconstruction project that would not be in a position to proceed prior to the end of the 1985 fiscal year. As a result, on 9 May 1985 the Warwick Sewer Authority formally requested that the Director of the Rhode Island Department of Environmental Management institute by-pass procedures outlined in the State of Rhode Island Rules and Regulation Pertaining to the Priority Determination System.² Since the upgrading of the Warwick Wastewater Treatment Facility was ranked second on the Priority List to the Bay Commission, the Sewer Authority expressed their opinion that Warwick's upgrading should be given first consideration for any unobligated fiscal year 1985 Construction Grant Funds.

For the next month, the Rhode Island Department of Environmental Management met separately and informally with representatives of the Warwick Sewer Authority and the Bay Commission. As the June 1985 deadline for submission of a Municipal Compliance Plan on behalf of the City of Warwick

came due, no formal decision had been reached by the State.

City of Warwick
"Draft" Municipal Compliance Plan
June 1985

In June 1985, the City of Warwick submitted a "Draft" Municipal Compliance Plan citing the pending request for institution of by-pass procedures and presenting two separate alternatives for financing and construction scheduling of the upgrading of the Warwick Wastewater Treatment Facility.

Under the first alternative, the City projected an additional \$2.6 million in federal assistance and an additional \$520,000 state share from fiscal year 1985 Construction Grant Funds. This combination of federal and state dollars represented ninety percent of a project valued at \$3.466 million. The \$3.5 million estimated cost of the second phase of construction closely fit the funds available, and it was proposed that this phase be funded under the 201 Construction Grants Program. In order to accomplish the remainder of the upgrading, the City would need voter approval of a bond referendum question of between \$3.5 and \$4.0 million. By this time, the City had legislation pending before the 1985 session of the Rhode Island General Assembly to authorize a sewer bond referendum question for up to \$9.0 million. Approval of a November 1985 bond referendum question would provide the additional funds required for the third phase of construction.

Under the second alternative, the City projected

future combined federal and state funding of approximately \$720,000. The balance of the cost of the remaining two phases, between six and seven million dollars, would be funded from the proposed November bond referendum.

The success of either alternative, and the City's ability to meet the July 1988 deadline, depended on voters of the City authorizing the sale of bonds for the construction of sewers. The fixed date compliance schedules for both alternatives provided for completion of construction by June 1988.

The Final Plan Evolves, July 1985 to Present

In July 1985, the Rhode Island Department of Environmental Management held its annual public hearing on the 1986 Priority List. One of the issues of the public hearing was the reallocation of unobligated fiscal year 1985 funds. As a result of the reallocation, the City of Warwick was scheduled to receive \$2.452 million in federal assistance for the second phase of construction. The State's contribution of twenty percent of the federal grant brought outside funding for the second phase up to approximately \$2.942 million.

In November 1985, the City requested and received voter approval to issue up to nine million dollars in bonds for the purpose of sewer construction. The referendum question, which represented the largest single purpose public works authorization in the City's history, was approved by

a margin of more than two to one.³

During the fall of 1985, the idea of recombining the second and third phases of construction was investigated and finally pursued. The original reason for phasing the project was to coincide with a three-year annual allotment of construction grant funds which, at this point, was non-existent. Additional concerns regarding overlapping contracts with the possibility of separate contractors on the site and performing work at the same time and anticipated cost savings resulting from a larger contract led the Sewer Authority to decide on bidding the remainder of the upgrading as a single contract now referred to as Contract 39B/C.

The recombination of bid specifications and plans was both time-consuming and complex. Concurrent with the recombination, the Sewer Authority, responding to staff recommendations, quadrupled the size of the previously proposed new laboratory wing and requested additional design work to include expansion and remodeling of offices and administrative space previously overlooked. The repackaging of plans and specifications, including new laboratory and administrative offices, was completed in March 1986 and is presently undergoing a biddability/constructability joint review by the Rhode Island Department of Environmental Management and the United States Army Corps of Engineers.

It now appears that Contract 39B/C will be awarded to the lowest bidder in November 1986. The Contract is es-

timated at 550 days, or approximately eighteen months of construction which would indicate a completion date of no later than May 1988. Funds for the project will be provided by staggered annual bond offerings to coincide with anticipated annual expenditures.⁴

This Chapter has summerized the events to date (April 1986) in the evolution of a final Municipal Compliance Plan for the City of Warwick. In Chapter Seven, the components presented so far in this report will be packaged for presentation to the State as the Municipal Compliance Plan for the City of Warwick, Rhode Island. The Plan will briefly describe the existing facilities and the recommendations of the City's Facilities Plan. A more detailed description of the proposed improvements, the phasing of construction, financing mechanisms and fixed date compliance schedules will be presented.

CHAPTER VI
A MUNICIPAL COMPLIANCE PLAN FOR THE
CITY OF WARWICK, RHODE ISLAND
MAY 1986

Existing Treatment Facility

The Warwick Wastewater Treatment Facility was dedicated in April 1965 and has remained relatively unchanged since that time. The facility employs an activated sludge process to provide secondary treatment for the City of Warwick's domestic and industrial wastewater prior to its discharge to the Pawtuxet River. Originally designed for an average daily flow of 5.2 million gallons, the plant presently discharges an average of approximately 2.7 million gallons daily.

To accomplish the treatment objective, five process methods are utilized. These include: 1) preliminary treatment; 2) primary treatment; 3) secondary treatment; 4) chlorination; and 5) sludge treatment.

The Warwick Wastewater Treatment Facility was designed for a twenty-year life. While the majority of concrete structures and buildings have maintained their integrity, mechanical process units have reached their design life and are in need of replacement. In addition, the facility

has been inundated by floodwaters from the Pawtuxet River on numerous occasions. During these flood events, major process units have been underwater resulting in raw sewage being discharged to the Pawtuxet River. Flooding has also caused significant damage to the process units themselves and total disruption of the biological medium used in the secondary treatment process. The repairs of physical damages and/or the restoration of the biological medium has often taken weeks to accomplish, leaving the facility out of compliance with its discharge permit for the interim period. The quality of the effluent has also suffered over the years as the result of periodic toxic shock loads reaching the plant, as well as significant solids loadings from septage dumpings.

City of Warwick, Rhode Island Facilities Plan

In 1981, a twenty-year Facilities Plan for the City of Warwick received final adoption and approval. As a result of the findings of this planning effort, the Warwick Sewer Authority decided to limit the extension of public sewers only to selected areas of the City and to provide public funds for the reconstruction of on-site septic systems where the provision of public sewers would not be cost effective over the planning period. At the time that the Facilities Plan was published, approximately twenty-five percent of the City's population was served by public sewers. Those areas included as part of the Facilities Plan

to be served by extension of public sewers during the twenty-year planning period encompassed an additional twenty-five percent of the City's population.

The adopted alternative for meeting the wastewater needs of the City meant that expansion of the existing treatment facility or the provision of additional treatment facilities would not be necessary. The 5.2 million gallon per day hydraulic capacity of the existing treatment facility would accommodate the anticipated system growth over the twenty-year planning period.

Although the Warwick Wastewater Treatment Facility was hydraulically sufficient, the twenty-year design life of the physical process units was being realized. In order to assure that the facility would be able to meet future effluent limitations, the Facilities Plan recommends the general upgrading of the existing secondary treatment process units with major process changes limited to septage treatment and solids handling. Also proposed was the construction of a major dike encircling the facility for the purpose of flood protection.

Proposed Treatment Technologies and Estimated Costs¹

Since 1981, the City of Warwick has progressed toward the goals and objectives of the Facilities Plan including the development of plans and specifications for upgrading the existing treatment facility. The City is now implementing the first phase of construction and the balance of the pro-

ject is on schedule to commence this year. The specific components of the two separate contracts are identified below.

Phase I, Contract 39A

The construction of an earthen flood protection dike is the single most important component of the entire upgrading and, therefore, has been included in the first phase. Since the dike will effectly remove a large area of land from the flood storage area of the Pawtuxet River, significant tree cutting, shrub removal, clearing and grubbing and excavation for floodplain compensation is part of the work associated with the construction of the dike.

Because of the alignment of the dike, it will be necessary to demolish and remove the existing chlorine contact tanks. As a result, new, larger chlorine contact tanks will also be constructed under Contract 39A. These new facilities will be located within the dike and will be part of a larger structure providing effluent and storm water pumping facilities as well as effluent flow metering and monitoring equipment, and chlorination and chlorine handling equipment. Under normal conditions, the facility's effluent will flow by gravity through a new outfall sewer line to the existing discharge point on the Pawtuxet River. If flooding conditions occur which result in a rise in river elevations, the effluent as well as the site storm drainage will be pumped to the river.

The new chlorination facilities also result in the construction of new process piping from the secondary clarifiers to the new chlorine contact tanks and a new outfall sewer line from the chlorination facilities to the existing discharge. The continuous chlorine residual monitoring and automated chlorine feed system, together with an increased tank length, will insure a greater contact time at sufficient levels of chlorination to effectively provide for pathogen control.

Another major element of the first phase of construction is modifications and improvements to the existing inlet works. Most significantly, the construction of a new septage receiving facility providing storage, aeration, grit removal, odor control, and chemical treatment of septage wastes will help to alleviate the impacts of septage loadings on the treatment process. This facility will enable septage to be pretreated and bled into the process stream over a twenty-four hour period thus reducing the impacts of shock loadings on the system. Additional improvements to the inlet works include rehabilitation or replacement of existing comminution and sewage grit collection and handling equipment. A new structure will also be built to enclose the entire inlet facility.

The last major element of the first phase of construction is the installation of a diesel engine powered emergency electrical generation system. Presently, the facility does not have sufficient emergency generation

equipment to maintain the treatment process units in the event of a loss of power.

Numerous related construction activities will occur in support of, or integral to, the specific improvements noted. These include: new yard and process piping at affected process units; new plumbing, heating, ventilation, electrical, telephone, and alarms systems in the new structures; excavation, excavation support systems, dewatering systems, backfill, and the control and diversion of water and sewage flows in all affected areas. In addition, a new site drainage system will be constructed. General site improvements also included are the removal and replacement of wire fencing and gates as well as replacement of disturbed walkways, roadways, and parking areas.

Contract 39A has been bid at a price of \$5.89 million. Additional contracted costs for engineering and inspection services, plus a five percent construction contingency, bring the estimated cost of Contract 39A to \$6,854,236.

Construction under Contract 39A commenced in June 1985 and is scheduled to be completed by October 1986. Under the Contract, the Contractor has 460 to complete the work. Presently, the project is on-schedule according to the Critical Path Project Schedule submitted by the Contractor.

Phase II, Contract 39B/C

The balance of the work necessary to complete the upgrading of the treatment facility will be accomplished under Phase II. Many of the improvements scheduled under Phase II represent the "heart" of the secondary treatment process upgrading, and the completion of this phase will significantly aid the City of Warwick in complying with its NPDES Permit.

One of the key elements of Phase II is the upgrading of the secondary treatment process units or the aeration system. Under this contract, two new aeration tanks will be constructed which will allow a much greater flexibility in the modes of operation of the activated sludge treatment process. In addition, the secondary system will benefit from the installation of new electric motors to supply air to the aeration tanks. The existing swing arm air diffuser system will be replaced by a new fixed plate air diffuser and acid-gas cleaning system. These improvements will permit the maintenance of sufficient levels of dissolved oxygen in the secondary units to provide marked improvements in effluent quality.

The second major component of Phase II is the complete upgrading of the solids handling train at the facility. This will include the refurbishing or replacement of primary sludge pumping equipment; the emptying, cleaning and refurbishing of the two digester units including a new cover on "B" digester; and the installation of new vacuum

belt press sludge dewatering equipment. Improvements to the solids handling system will effectively reduce the amount of total suspended solids being discharged to the Pawtuxet River.

The next most important element of this contract, relative to the treatment process, is the rehabilitation or replacement of equipment in the primary and secondary clarification units. Work under this item will also include the installation of a new secondary clarifier complete with separate pumping station. Existing primary and secondary clarification tanks will be emptied, cleaned and all mechanical components of the tanks will be refurbished. All drive motors, pumps and process piping and valving will be replaced. In addition, a new plant water system will be constructed with the potential of being fed by the City's potable water system or the facilities secondary effluent.

No less important to the overall management of the treatment facility and the City's system of sewers are scheduled improvements to administrative, laboratory, and maintenance facilities. Under Contract 39BC, the existing control building which presently houses administrative, laboratory, and operations functions will be remodeled and dedicated entirely to administrative functions. A new addition to the building will provide significantly increased laboratory facilities as well as a new operations and control room. The addition of two new garage bays to the existing utility building will alleviate overcrowded

conditions in storage and maintenance work areas.

As with the first phase of construction, Phase II includes numerous construction activities which will occur in support of, or in conjunction with, the items outlined above. These include new yard and process piping at affected process units; new plumbing, heating, ventilation, electrical, telephone and alarm systems in the new structures; excavation, excavation support systems, dewatering systems, backfill, and the control and diversion of water and sewage flows in all affected areas.

It is presently estimated that Contract 39BC will cost between \$7 and 8 million including engineering and inspection services. The estimated time for completion of this phase of construction is 550 days.

Financing Mechanisms

Phase I, Contract 39A

The first phase of upgrading, Contract 39A, is being financed through a Step III 201 Construction Grant. Funds for this project result from a combination of Step III grant funds allocated under the Rhode Island Priority Determination System for fiscal years 1983-1985. The majority of the cost of Contract 39A will be paid by seventy-five percent federal funds, fifteen percent state funds and ten percent local funds. Selected portions are eligible for an additional ten percent federal contribution due to the innovative or alternative technologies being utilized. The

additional federal contribution will slightly reduce the state and local share for those portions of the project which qualify for the innovative or alternative technology bonus.

The City of Warwick has appropriated one million dollars from a bond referendum approved by the voters of the City in 1983 to cover the cost of the local share. This amount is sufficient to cover the anticipated seven hundred thousand dollar local share plus the local share of any unanticipated cost overruns beyond the five percent contingency. To date, there has been approximately twenty-two thousand dollars in approved change orders. The Contractor is presently on schedule with this project, and work should be completed under this contract by October 1986.

Phase II, Contract 39B/C

As a result of a reallocation of fiscal year 1985 unobligated Construction Grant Funds, the City of Warwick will be receiving a total \$2.452 million federal, and \$0.4904 million state funds for this project. This contribution of Construction Grant Funds is based on a federal share of seventy-five percent of the eligible costs of those items previously identified as Contract 39B. Once the low bid on Contract 39BC has been certified, the unit prices for the items originally contained in Contract 39B will be totalled, and the final grant dollars will be revised accordingly. The balance of the items in the Contract, those

originally designated as Contract 39C, will be paid for solely by the City of Warwick. The cost sharing of some items, specifically General Conditions and Insurances and Bond Costs will be negotiated between the City and the State.

The City of Warwick has been authorized by the voters of the City to sell up to \$9 million of municipal bonds for the purpose of sewer construction. This authorization came as the result of voter approval of a sewer bond referendum question in November 1985. The City has not yet authorized the sale of any portion of the approved bond issue and will not until the amount necessary as a local share of Contract 39BC has been determined by bid.

Based on the current project cost estimate of \$7 to \$8 million, and considering a contribution of approximately \$3 million in federal and state assistance, there appears to be quite sufficient bondable authorization available to cover the local cost of Contract 39BC.

Contract 39BC is presently undergoing a joint federal-state biddability/constructability review and should be ready for advertisement for bid by June. It is estimated that this Contract will require 550 calendar days for completion.

Fixed Date Compliance SchedulePhase I, Contract 39A

Advertise for Bids	Janaury	1985
Review and Evaluate Bids	March	1985
Award Contract	June	1985
Notice to Proceed/Commence Construction	July	1985
Construction Completion	October	1986

Phase II, Contract 39B/C

Advertise for Bids	June	1986
Review and Evaluate Bids	August	1986
Award Contract	November	1986
Notice to Proceed/Commence Construction	December	1986
Construction Completion	May	1988

CHAPTER VII

CONCLUSIONS

After July 1988, and after committing between fourteen and fifteen million dollars in combined federal, state and local funds, what results can be expected in light of the broad goals originally envisioned by the United States Congress? From the outset of the 208 Water Quality Management Program for the State of Rhode Island, it was clear that even with the upgrading of the three municipal wastewater treatment facilities discharging to the Pawtuxet River, Class A or swimable/fishable waters were, at best, a remote possibility. Non-point sources of pollution emanating from urban runoff and landfill leachate within the watershed of the Pawtuxet River were technically difficult and financially not cost-effective to attempt to correct.

From the State's perspective, the prioritization of the upgrading of the Warwick facility ahead of other facilities within the State was rationalized through the Priority Determination System. One of the chief factors influencing that priority determination was the conditions along the Pawtuxet River, and the impacts of the river on the water quality of Narragansett Bay. Asked about the long-term benefits of upgrading the Warwick Wastewater Treatment Fa-

cility, James W. Fester, Chief of the Division of Water Resources of the Rhode Island Department of Environmental Management noted:

"The upgrading of the Warwick Facility should result in significant improvements in the level of treatment, certainly sufficient to attain the thirty/mili-grams per liter effluent limitations for BOD and total suspended solids, and the facility should be better able to handle the septage loadings it receives. . . . From the information available to me, the improvements should affect a significant diminution of BOD loadings on the Pawtuxet River from Warwick which will result in the maintenance of dissolved oxygen levels sufficient to meet Class C standards--suitable for fish and wildlife."¹

In order to provide for the Pawtuxet River to have sufficient dissolved oxygen to support a warm water fishery over the next twenty years, the State has approved over eighty-five million dollars worth of improvements to treatment facilities in the Cities of Cranston and Warwick and in the Town of West Warwick.² The original recommendations of the 208 Plan went significantly further in proposing tertiary treatment units at all three facilities to provide effluent qualities sufficient to meet Class A water quality standards. As was mentioned earlier, these goals were perceived to be unattainable due to non-point sources of pollution affecting water quality in the Pawtuxet River and were eliminated from consideration until further water quality modeling of the Pawtuxet River is completed.

The upgrading of the Warwick Wastewater Treatment Facility also results from a significant commitment of local resources. From an interview with Mayor Francis X.

Flaherty, it became apparent that the decision to move forward with this project without assurances of continued federal financing was one of the major public policy issues confronted during the Mayor's first term in office. The Mayor noted that the City's decision to propose the authorization of a major bonded indebtedness, at a time when such a financial decision could have broad impacts on the City's bond rating, was due to the multitude of public policy issues which this decision affected. Chief among these policy issues were: the need to positively react to the federal mandate; the need to demonstrate that his administration and the City recognized their responsibility to adequately treat and dispose of their waste and would move ahead independent of federal and state assistance; and the need to maintain and expand the existing infrastructure as a means of encouraging economic development.³

These issues, all valid, are tied together by a shared political undercurrent--environmental consciousness is good politics. More in line with the original goals and objectives of the Federal Water Pollution Control Act, Mayor Flaherty cited the importance of improving and maintaining the Pawtuxet River as a viable element of a statewide recreational system.

"Ten years ago, who would have believed that Lake Erie could be brought back to life--perhaps, in the next five to ten years, as the result of Warwick's actions and on-going projects at other municipal facilities along the river, the Pawtuxet River will regain the productive role it once enjoyed in the State's recreation system."⁴

At the point of the Warwick Wastewater Treatment Facility's discharge to the Pawtuxet River, the receiving waters are currently classified as Class C waters, i.e., suitable for fish and wildlife. In reality, these waters on any given day are never better than Class D; and, on occasion, fall to Class E or nuisance conditions. Presently, the major factors causing this degradation are the discharges of the West Warwick and Warwick Wastewater Treatment Facilities. Construction is now underway at both facilities; and, when completed, should ensure that the communities have the physical infrastructure available to maintain Class C conditions in the Pawtuxet River over the next twenty years. The real test, however, is the emphasis placed on operation and maintenance of the facilities over time--an evaluation of which is beyond the scope of this investigation.

In the specific case of the Warwick Wastewater Treatment Facility and its impact on the Pawtuxet River, the governmental actors representing the City, State and Federal interests have committed very large sums of money not with a goal of significant improvements to water quality, but rather in an attempt to hold the line at the current levels of expectation. If Congress or the States truly intend to some day accomplish major strides in improving the quality of the Nations' waters, it may truly have to become the national priority; for, without the infusion of vastly increased resources, the original dreams

will never become a reality.

FOOTNOTES

Chapter I

¹Federal Water Pollution Control Act Amendments of 1972, U.S. Code, vol. 33 sec. 1251 (1980).

²Ibid., secs. 1342, 1281, 1288.

³Ibid., sec. 1311(b)(1)(B).

⁴Ibid., secs. 1286(e), 1287.

⁵Ibid., sec. 1287.

⁶Ibid., sec. 1311(i)(1).

⁷Ibid., secs. 1282(a)(1), 1287 (1985).

⁸Ibid., sec. 1311(i)(1) (1985).

⁹Administrator, U.S. Environmental Protection Agency, Policy Declaration, "National Municipal Policy to Protect Water Quality," Federal Register 49, no. 20, 30 January 1984, 3832.

Chapter II

¹J. Leonard Ledbetter, "The Federal Role in Funding Clean Water," in Funding Clean Water, ed. H. Clyde Reeves (Lexington: D.C. Heath and Co., 1984), p. 51.

²R.I. Statewide Planning Program, 208 Water Quality Management Plan for Rhode Island--Final Plan August, 1979, (Providence: R.I. Statewide Planning Program, 1979), p. 19.

³Ibid., pp. 161-163.

⁴Lee Pare and Associates Inc., Development of Alternative Solutions for Improving Water Quality in the Pawtuxet River Basin: Phase IV Report prepared for R.I. Statewide Planning Program, (Providence: R.I. Statewide Planning Program, 1978), p. 17.

⁵Ledbetter, Funding Clean Water, p. 58.

⁶R.I. Statewide Planning Program, 208 Water Quality Management Plan for Rhode Island Status of Recommendations--November 1982, (Providence: R.I. Statewide Planning Program, 1982), p. 5.35.

⁷Federal Water Pollution Control Act Amendments of 1972, U.S. Code, vol. 33 sec. 1256 (1980).

⁸R.I. Department of Environmental Management, Division of Water Resources, "Construction Grants State Project Priority List--Final September 1979, Extended List," n.p., 1979, (Photocopied), p. 2.

⁹Ibid.

¹⁰Ibid.

¹¹Idem, "Construction Grants State Project Priority List--Final September 1980", n.p., 1980 (Photocopied), p. 2.

¹²Idem, "Construction Grants State Project Priority List--Final September 1981", n.p., 1981 (Photocopied), p. 2.

¹³Idem, "Construction Grants State Project Priority List--Final September 1984", n.p., 1984 (Photocopied), pp. 1-2.

Chapter III

¹Interview with Leonard T. Maynard Jr., P.E., Superintendent, Warwick Sewer Authority, Warwick, Rhode Island, 10 March 1986.

²C.E. Maguire, Inc. Wastewater Facilities Plan for the City of Warwick, Rhode Island Part II, (n.p., 1979), p. II-4.

³For a detailed discussion of environmental impacts and cost/benefit analysis of the various proposed alternatives see Draft Wastewater Facilities Plan for Warwick, Rhode Island Part I, by C.E. Maguire Inc., (n.p., 1978), pp. I-4 - I-13.

⁴Idem, P.II-8.

⁵Interview with Leonard T. Maynard Jr., P.E.

Chapter IV

¹Detailed evidence of the volume and discharge characteristics of the effluent of the Warwick Facility were

taken from copies of the Warwick Wastewater Treatment Facility Monthly Discharge Monitoring Reports on file at the offices of the Warwick Sewer Authority, 300 Service Avenue, Warwick, Rhode Island.

²Ibid.

³Ibid.

⁴Ibid.

⁵C.E. Maguire, System Priority for Construction Warwick Wastewater Treatment Facility, CEM No: 3975, April 1982, EPA C-440118-02 Correspondence File, Warwick Sewer Authority, Warwick, Rhode Island.

Chapter V

¹David A. Fierra to James W. Fester, 8 October 1984, EPA C-440118-03 Grant Offer File, Warwick Sewer Authority, Warwick, Rhode Island.

²John A. Caruso to Robert L. Bendick Jr., 9 May 1985, EPA C-440118-03 Correspondence File, Warwick Sewer Authority, Warwick, Rhode Island.

³"Financing for Sewers, Schools get large vote in Warwick". Providence Journal, 6 November 1985, sec. C, p. 1.

⁴Interview with Kimberly A. Calvitto, Treasurer, City of Warwick, Warwick, Rhode Island, 2 April 1986.

Chapter VI

¹For a more detailed description of proposed improvements to the Warwick Wastewater Treatment Facility see Specifications for the Modifications to the Wastewater Treatment Facility--Contract 39A - EPA Project Number C-440118-03 C.E. Maguire, Inc., (n.p., 1984), and Specifications for the Modifications to the Wastewater Treatment Facility--Contract 39B/C - EPA Project Number C-440118-03, by C.E. Maguire, Inc., (n.p., 1986).

Chapter VII

¹Interview with James W. Fester, Chief, Division of Water Resources, R.I. Department of Environmental Management, Providence, Rhode Island, 16 April 1986.

APPENDIX

**FEDERAL WATER POLLUTION CONTROL ACT,
AS AMENDED BY THE CLEAN WATER ACT OF 1977**
(Commonly Referred to as Clean Water Act)

(Enacted by Public Law 92-500, October 18, 1972; 86 Stat. 816; 33 U.S.C. 1251 et seq.; Amended by PL 93-207, December 28, 1973, and PL 93-243, January 2, 1974; PL 93-592, January 2, 1975; PL 94-238, March 23, 1976; PL 94-273, April 21, 1976; PL 94-558, October 19, 1976; PL 95-217, December 28, 1977; PL 95-576, November 2, 1978; PL 96-148, December 16, 1979; PL 96-478, PL 96-483, October 21, 1980; PL 96-561, December 22, 1980; PL 97-35, August 13, 1981; PL 96-510, December 11, 1981; PL 97-117, December 29, 1981; PL 97-164, April 2, 1982; Affected by PL 97-216, July 18, 1982; PL 97-272, September 30, 1982; Amended by PL 97-440, January 8, 1983; Affected by PL 98-45, July 12, 1983; PL 98-371, July 19, 1984; PL 98-396, August 22, 1984; PL 99-88, August 15, 1985)

(Editor's note: The Federal Water Pollution Control Act Amendments of 1972, PL 92-500, replaced the previous language of the Act entirely, including the Water Quality Act of 1965, the Clean Water Restoration Act of 1966, and the Water Quality Improvement Act of 1970, all of which had been amendments of the Federal Water Pollution Control Act first passed in 1956. The 1977 amendments, PL 95-217, further amended PL 92-500, as did PL 95-576.)

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

TITLE I—RESEARCH AND RELATED PROGRAMS

DECLARATION OF GOALS AND POLICY

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

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

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

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

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

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

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into

the navigable waters, waters of the contiguous zone, and the oceans.

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is the policy of Congress that the States manage the construction grant program under this Act and implement the permit programs under sections 402 and 404 of this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution.

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

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

(e) Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided

for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

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

(g) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

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

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

(2) The need for and the value of storage or regulation of streamflow (other than for water quality) including but not limited to navigation, salt water intrusion, recreation, esthetics, and fish and wildlife, shall be determined by the Corps of Engineers, Bureau of Reclamation, or other Federal agencies.

(3) The need for, the value of, and the impact of, storage for water quality control shall be determined by

the Administrator, and his views on these matters shall be set forth in any report or presentation to Congress proposing authorization or construction of any reservoir including such storage.

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

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

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

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

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

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

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

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

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

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

(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act, shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this Act, and the programs by which State and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 101(g) of the Act to improve coordination of efforts to reduce and eliminate pollution in concert with programs for managing water resources.

INTERSTATE COOPERATION
AND UNIFORM LAWS

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

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

RESEARCH, INVESTIGATIONS, TRAINING,
AND INFORMATION

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

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

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

(3) conduct, in cooperation with State water pollution control agencies and other interested agencies,

organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

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

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

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

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

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

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

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

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

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

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

tion and the prevention, reduction, and elimination thereof; and

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

(c) In carrying out the provisions of subsection (a) of this section, the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

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

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

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

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

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

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

(g) (1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) (1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies,

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

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

(m) (1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

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

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

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

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

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

(o) (1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

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

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

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

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

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

(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of fresh-water aquatic ecosystems.

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

(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) such data as are available on the latest available technology, economic feasibility including cost-effectiveness analysis, and (2) the total impact on the environment, considering not only water quality but also air quality, land use, and effective utili-

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ation and conservation of fresh water and other natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than 270 days after enactment of this subsection, and shall be made available to the public and the States, and considered as they become available by the Administrator in carrying out section 316 of this Act and by the States in proposing thermal water quality standards.

(u) There is authorized to be appropriated (1) not to exceed \$100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed \$14,039,000 for the fiscal year ending September 30, 1980, and not to exceed \$20,697,000 for the fiscal year ending September 30, 1981, and not to exceed \$22,770,000 for the fiscal year ending September 30, 1982, for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed \$7,500,000 for fiscal years 1973, 1974, and 1975, \$2,000,000 for fiscal year 1977, \$3,000,000 for fiscal year 1978, \$3,000,000 for fiscal year 1979, \$3,000,000 for fiscal year 1980, \$3,000,000 for fiscal year 1981, and \$3,000,000 for fiscal year 1982, for carrying out the provisions of subsection (g)(1); (3) not to exceed \$2,500,000 for fiscal year 1973, 1974, and 1975, \$1,000,000 for fiscal year 1977, \$1,500,000 for fiscal year 1978, \$1,500,000 for fiscal year 1979, \$1,500,000 for fiscal year 1980, \$1,500,000 for fiscal year 1981, and \$1,500,000 for fiscal year 1982, for carrying out the provisions of subsection (g)(2); (4) not to exceed \$10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed \$15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed \$10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

[Sec. 104 (u) amended by PL 95-576; PL 96-483]

GRANTS FOR RESEARCH AND DEVELOPMENT

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

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

(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical

additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes, and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

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

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

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

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

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

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

(e) (i) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing, reducing, and eliminating pollution from agriculture; and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new

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

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

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

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

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

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

(h) For the purpose of this section there is authorized to be appropriated \$75,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e).

(i) The Administrator is authorized to make grants to a municipality to assist in the costs of operating and maintaining a project which received a grant under this section, section 104, or section 113 of this Act prior to the date of enactment of this subsection so as to reduce the operation and maintenance costs borne by the recipients of services from such project to costs comparable to those for projects assisted under title II of this Act.

(j) The Administrator is authorized to make a grant to any grantee who received an increased grant pursuant to section 202(a) (2) of this Act. Such grant may pay up to 100 per centum of the costs of technical evaluation of the operation of the treatment works, costs of training of persons (other than employees of the grantee), and costs of disseminating technical information on the operation of the treatment works.

GRANTS FOR POLLUTION CONTROL PROGRAMS

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

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

(2) \$75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, \$100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, 1980, \$75,000,000 per fiscal year for the fiscal years 1981 and 1982; for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

[Sec. 106 (a)(2) amended by PL 96-483]

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

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

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

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

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

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

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

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

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

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

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

(B) such additional information, data, and reports as the Administrator may require.

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(2) No federally assumed enforcement as defined in section 309 (a) (2) is in effect with respect to such State or interstate agency; and

(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before October 1 of each year thereafter for the Administrator's approval of its program for the prevention, reduction, and elimination of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

[Sec. 106 (f)(3) amended by PL 94-273]

(g) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallocated by the Administrator in accordance with regulations promulgated by him.

MINE WATER POLLUTION CONTROL AND DEMONSTRATIONS

Sec. 107A(a) The Administrator in cooperation with the Appalachian Regional Commission and other Federal agencies is authorized to conduct, to make grants for, or to contract for, projects to demonstrate comprehensive approaches to the elimination or control of acid or other mine water pollution resulting from active or abandoned mining operations and other environmental pollution affecting water quality within all or part of a watershed or river basin, including siltation from surface mining. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, and other pollution affecting water quality, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution affecting water quality from acid, sedimentation, or other pollutants and in such projects to restore affected lands to usefulness for forestry, agriculture, recreation, or other beneficial purposes.

(b) Prior to undertaking any demonstration project under this section in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965, as amended), the Appalachian Regional Commission shall determine that such demonstration project is consistent with the objectives of the Appalachian Regional Development Act of 1965, as amended.

(c) The Administrator, in selecting watersheds for the purposes of this section, shall be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(d) Federal participation in such projects shall be subject to the conditions—

(1) that the State shall acquire any land or interests therein necessary for such project; and

(2) that the State shall provide legal and practical protection to the project area to insure against any

activities which will cause future acid or other mine water pollution.

(e) There is authorized to be appropriated \$30,000,000 to carry out the provisions of this section, which sum shall be available until expended.

POLLUTION CONTROL IN GREAT LAKES

Sec. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other reduction and remedial techniques which will contribute substantially to effective and practical methods of pollution prevention, reduction, or elimination.

(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

(c) There is authorized to be appropriated \$20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

(d) (1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge.

Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and in place sources of pollution, including bottom loads, sludge banks, and polluted harbor dredgings.

(e) There is authorized to be appropriated \$5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

TRAINING GRANTS AND CONTRACTS

Sec. 109. (a) The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works; and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

(A) planning for the development, or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

(B) training and retraining of faculty members;

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

(b) (1) The Administrator may pay 100 per centum of any additional cost of construction of treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material.

(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator. In any case where a grant is made to serve two or more States, the Administrator is authorized to make an additional grant for a supplemental facility in each such State.

(3) The Administrator may make such grant out of the sums allocated to a State under section 205 of this Act, except that in no event shall the Federal cost of any such training facilities exceed \$500,000.

(4) The Administrator may exempt a grant under this section from any requirement under section 204(a) (3) of this Act. Any grantee who received a grant under this section prior to enactment of the Clean Water Act of 1977 shall be eligible to have its grant increased by funds made available under such Act.

APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

Sec. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(2) The Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

(3) (A) Payments under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under paragraph (1).

AWARD OF SCHOLARSHIPS

noSec. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs; in such manner and accordance to such plans as will insofar as practicable—

(A) provide an equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

(A) that such program has a principal objective the education and training of persons in the operation and maintenance of treatment works;

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application; if any, submitted pursuant to section 110 of this Act; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4) (A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(B) The Administrator shall (in addition to the stipends paid to persons under paragraph (1)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally support programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods

as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of this course of studies as the Administrator determines appropriate.

DEFINITIONS AND AUTHORIZATIONS

Sec. 112. (a) As used in sections 109 through 112 of this Act—

(1) The term "institution of higher education" means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency of association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

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

(b) The Administrator shall annually report his activities under section 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

(c) There are authorized to be appropriated \$25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, \$6,000,000 for the fiscal year ending September 30, 1977, \$7,000,000 for the fiscal year ending September 30, 1978, \$7,000,000 for the fiscal year ending September 30, 1979, \$7,000,000 for the fiscal year ending September 30, 1980, \$7,000,000 for the fiscal year ending September 30, 1981, and \$7,000,000 for the fiscal year ending September 30, 1982, to carry out sections 109 through 112 of this Act.

[Sec. 112(c) amended by PL 96-483]

ALASKA VILLAGE DEMONSTRATION PROJECTS

Sec. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water

supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities, and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

(c) The Administrator shall report to Congress not later than July 1, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

(d) There is authorized to be appropriated not to exceed \$2,000,000 to carry out this section. In addition, there is authorized to be appropriated to carry out this section not to exceed \$200,000 for the fiscal year ending September 30, 1978 and \$220,000 for the fiscal year ending September 30, 1979.

(e) The Administrator is authorized to coordinate with the Secretary of the Department of Health, Education, and Welfare, the Secretary of the Department of Housing and Urban Development, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, and the heads of any other departments or agencies he may deem appropriate to conduct a joint study with representatives of the State of Alaska and the appropriate Native organizations (as defined in Public Law 92-203) to develop a comprehensive program for achieving adequate sanitation services in Alaska villages. This study shall be coordinated with the programs and projects authorized by sections 104(g) and 105(e) (2) of this Act. The Administrator shall submit a report of the results of the study, together with appropriate supporting data and such recommendations as he deems desirable, to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives not later than December 31, 1979. The Administrator shall also submit recommended administrative actions, procedures, and any proposed legislation necessary to implement the recommendations of the study no later than June 30, 1980.

(f) The Administrator is authorized to provide technical, financial and management assistance for operation and maintenance of the demonstration projects constructed under this section, until such time as the recommendations of subsection (e) are implemented.

(g) For the purpose of this section, the term "village" shall mean an incorporated or unincorporated community with a population of ten to six hundred people living within a two-mile radius. The term "sanitation services" shall mean water supply, sewage disposal, solid waste disposal and other services necessary to maintain generally accepted standards of personal hygiene and public health.

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Sec. 114. (a) The Administrator, in consultation with the Tahoe Regional Planning Agency, the Secretary of Agriculture, other Federal agencies, representatives of State and local governments, and members of the public, shall conduct a thorough and complete study on the adequacy of and need for extending Federal oversight and control in order to preserve the fragile ecology of Lake Tahoe.

(b) Such study shall include an examination of the interrelationships and responsibilities of the various agencies of the Federal Government and State and local governments with a view to establishing the necessity for redefinition of legal and other arrangements between these various governments, and making specific legislative recommendations to Congress. Such study shall consider the effect of various actions in terms of their environmental impact on the Tahoe Basin, treated as an ecosystem.

(c) The Administrator shall report on such study to Congress not later than one year after the date of enactment of this subsection.

(d) There is authorized to be appropriated to carry out this section not to exceed \$500,000.

IN-PLACE TOXIC POLLUTANTS

Sec. 115. The Administrator is directed to identify the location of in-place pollutants, with emphasis on toxic pollutants in harbors and navigable waterways and is authorized, acting through the Secretary of the Army, to make contracts for the removal and appropriate disposal of such materials from critical port and harbor areas. There is authorized to be appropriated \$15,000,000 to carry out the provisions of this section, which sum shall be available until expended.

HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

Sec. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process.

(b) The Administrator is authorized to make grants to the State of New York to carry out this section from

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funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983. Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 616(b) of this Act. The Administrator may not obligate or expend more than \$20,000,000 to carry out this section.

[Sec. 116 added by PL 96-483]

[Editor's note: Section 12 of PL 96-483 provides:

"Sec. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The State shall pay 10 per centum of project costs. At a minimum, the Administrator shall undertake projects under such program in the States of Ohio, Illinois, and West Virginia. There are authorized to be appropriated \$10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations."]

TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

Sec. 201. (a) It is the purpose of this title to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this Act.

(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

(f) The Administrator shall encourage waste treatment management which combines "open space" and recreational considerations with such management.

(g) (1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentence, the Administrator may make grants on and after October 1, 1984, for any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.

[Sec. 201(g)(1) revised by PL 97-117]

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account section 201(d) of this Act and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

(h) A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on the date of enactment of this subsection where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 204 of this Act and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or

commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes;

(i) The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

(j) The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 304(d) (3) of this Act, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most effective alternative by more than 15 per centum.

(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980. This subsection shall not be in effect after November 15, 1981.

[Sec. 201(k) added by PL 96-483; amended by PL 97-117]

[Editor's note: Section 4 of PL 96-483 provides:

"Sec. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment by section 3* on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works."]

(1)(1) After the date of enactment of this subsection, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 202(a) of this Act, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.

(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this title the costs of facility planning or the preparation of plans, specifications, and estimates.

(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

*Section 3 of PL 96-483 amended Section 201 of this Act by adding subsection (k).

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18. (C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.

[Sec. 201(l) added by PL 97-117]

MITIGATION AND SPECIAL PROCESSES

(m)(1) Notwithstanding any other provisions of this title, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 205 of this Act to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.

(2) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with project numbered C-06-2772, for the purchase of one hundred and thirty-nine acres of property as environmental mitigation for siting of the proposed treatment plant.

(3) Notwithstanding any other provision of this Act, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.

[Sec. 201(m) added by PL 97-117]

COMBINED SEWER OVERFLOW

(n)(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

(2) Beginning fiscal year 1983, the Administrator shall have available \$200,000,000 per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.

[Sec. 201(n) added by PL 97-117]

(o) The Administrator shall encourage and assist applicants for grant assistance under this title to develop and file with the Administrator a capital financing plan which, at a minimum—

(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.

[Sec. 201(o) added by PL 97-117]

FEDERAL SHARE

Sec. 202. (a)(1) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, and ending before October 1, 1984, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator), and for any fiscal year beginning on or after October 1, 1984, shall be 55 per centum of the cost of construction thereof (as approved by the Administrator), unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration

of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section. Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-in-flow correction has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all segments and phases of such facility, interceptors, and project for infiltration-in-flow correction shall be eligible for grants at 75 per centum of the cost of construction thereof.

[Sec. 202(a)(1) amended by PL 96-483; PL 97-117]

(2) The amount of any grant made after September 30, 1978, and before October 1, 1981, for any eligible treatment works or significant portion thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g) (5) shall be 85 per centum of the cost of construction thereof unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection. The amount of any grant made after September 30, 1981, for any eligible treatment works or unit processes and techniques thereof utilizing innovative or alternative wastewater treatment processes and techniques referred to in section 201(g)(5) shall be a percentage of the cost of construction thereof equal to 20 per centum greater than the percentage in effect under paragraph (1) of this subsection for such works or unit processes and techniques, but in no event greater than 85 per centum of the cost of construction thereof. No grant shall be made under this paragraph for construction of a treatment works in any State unless the proportion of the State contribution to the non-Federal share of construction costs for all treatment works in such State receiving a grant under this paragraph is the same as or greater than the proportion of the State contribution (if any) to the non-Federal share of construction costs for all treatment works receiving grants in such State under paragraph (1) of this subsection.

[Sec. 202(a)(2) amended by PL 96-483; PL 97-117]

(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if

the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures.

(4) For the purposes of this section, the term "eligible treatment works" means those treatment works in each State which meet the requirements of section 201(g) (5) of this Act and which can be fully funded from funds available for such purpose in such State.

[Sec. 202(a)(4) amended by PL 97-117]

(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

(2) the State water pollution control agency or other appropriate State authority certifies that the quantity of available ground water will be insufficient, inadequate, or unsuitable for public use, including the ecological preservation and recreational use of surface water bodies, unless effluents from publicly owned treatment works after adequate treatment are returned to the ground water consistent with acceptable technological standards.

[Editor's note: Section 27 of PL 97-117 provides:

"BATH TOWNSHIP

Sec. 27. For purposes of the Federal Water Pollution Control Act, the project for publicly owned treatment works for Bath Township, Michigan, shall be eligible for payments from sums allocated to the State of Michigan under such Act in an amount equal to the amount such works would be eligible for under section 202 of such Act if such works were to be constructed after the date of enactment of this Act, at the original construction cost.")

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

Sec. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201 (g) (1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted,

and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project. In the case of a treatment works that has an estimated total cost of \$8,000,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works.

[Sec. 203(a) amended by PL 96-483; PL 97-117]

(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

(d) Nothing in this Act shall be construed to require, or to authorize the Administrator to require, that grants under this Act for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.

(e) At the request of a grantee under this title, the Administrator is authorized to provide technical and legal assistance in the administration and enforcement of any contract in connection with treatment works assisted under this title, and to intervene in any civil action involving the enforcement of such a contract.

LIMITATIONS AND CONDITIONS

Sec. 204. (a) Before approving grants for any project for any treatment works under section 201(g) (1) the Administrator shall determine—

(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act, except that any priority list developed pursuant to section 303(e) (3) (H) may be modified by such State in accordance with regulations promulgated by the Administrator to give higher priority for grants for the Federal share of the cost of preparing construction drawings and specifications for any treatment works utilizing processes and techniques meeting the guidelines

promulgated under section 304(d) (3) of this Act and for grants for the combined Federal share of the cost of preparing construction drawings and specifications and the building and erection of any treatment works meeting the requirements of the next to the last sentence of section 203(a) of this Act which utilizes processes and techniques meeting the guidelines promulgated under section 304(d) (3) of this Act;

(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required after taking into account, in accordance with regulations promulgated by the Administrator, efforts to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under this title shall be determined by the Administrator taking into account the projected population and associated commercial and industrial establishments within the jurisdiction of the applicant to be served by such treatment works as identified in an approved facilities plan, an areawide plan under section 208; or an applicable municipal master plan of development. For the purpose of this paragraph, section 208, and any such plan, projected population shall be determined on the basis of the latest information available from the United States Department of Commerce or from the States as the Administrator, by regulation, determines appropriate. Beginning October 1, 1984, no grant shall be made under this title to construct that portion of any treatment works providing reserve capacity in excess of existing needs (including existing needs of residential, commercial, industrial, and other users) on the date of approval of a grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of a project for secondary treatment or more stringent treatment or new interceptors and appurtenances, except that in no event shall reserve capacity of a facility and its related interceptors to which this subsection applies be in excess of existing needs on October 1, 1990. In any case in which an applicant proposes to provide reserve capacity greater than that eligible for Federal financial assistance under this title, the incremental costs of the additional reserve capacity shall be paid by the applicant;

[Sec. 204(a)(5) amended by PL 97-117]

(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment. When in the judgment of the grantee, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may

be used as a means to define the performance or other salient requirements of a procurement, and in doing so the grantee need not establish the existence of any source other than the brand or source so named.

[Sec. 204(a)(6) amended by PL 97-117]

(b) (1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(g) (1) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; and (B) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of the date of enactment of this sentence, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the waste, and other appropriate factors) and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate.

[Sec. 204(b)(1)(B) repealed and (C) redesignated as (B) by PL 96-483]

(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities

(3) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

[Sec. 204(b)(3) repealed and (4) redesignated as (3) by PL 96-483]

(4) A system of charges which meets the requirement of clause (A) of paragraph (1) of this subsection may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (A) the applicant to establish a system by which maintenance of the treatment works; and (B) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the costs of the waste treatment services.

[Sec. 204(b)(5) redesignated as (4) by PL 96-483]

(6) [Sec. 204(b)(6) repealed by PL 96-483]

[Editor's note: Section 2(c) of PL 96-483 provides:

(c) "The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b)* of this section or release any grant recipient of the obligations established by such conditions of other requirement."

Section 2(g) of PL 96-483 provides:

"(g) The amendments made by this section** shall take effect on December 27, 1977."

(c) The next to the last sentence of paragraph (5) of subsection (a) of this section shall not apply in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors has received a grant for erection, building, acquisition, alteration, remodeling, improvement, or extension before October 1, 1984, and all segments and phases of such facility and interceptors shall be funded based on a 20-year reserve capacity in the case of such facility and a 20-year reserve capacity in the case of such interceptors, except that, if a grant for such interceptors has been approved prior to the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981, such interceptors shall be funded based on the approved reserve capacity not to exceed 40 years.

[Sec. 204(c) added by PL 97-117]

(d)(1) A grant for the construction of treatment works under this title shall provide that the engineer or engineering firm supervising construction or providing architect engineering services during construction shall continue its relationship to the grant applicant for a period of one year after the completion of construction and initial operation of such treatment works. During such period such engineer or engineering firm shall supervise operation of the treatment works, train operating personnel, and prepare curricula and training material for operating personnel. Costs associated with the implementation of this paragraph shall be eligible for Federal assistance in accordance with this title.

(2) On the date one year after the completion of construction and initial operation of such treatment works, the owner and operator of such treatment works shall certify to the Administrator whether or not such treatment works meet the design specifications and effluent limitations contained in the grant agreement and permit pursuant to

section 402 of the Act for such works. If the owner and operator of such treatment works cannot certify that such treatment works meet such design specifications and effluent limitations, any failure to meet such design specifications and effluent limitations shall be corrected in a timely manner, to allow such affirmative certification, at other than Federal expense.

(3) Nothing in this section shall be construed to prohibit a grantee under this title from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a contract pertaining to a project assisted under this title, than those provided under this subsection.

[Sec. 204(d) added by PL 97-117]

ALLOTMENT

Sec. 205. (a) Sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, and before September 30, 1977, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of the table III of House Public Works Committee Print No. 92-50.

For the fiscal year ending June 30, 1975, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93-28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print. Allotments for fiscal years which begin after the fiscal year ending June 30, 1975 shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

(b) (1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amount so allotted which are not obligated by the end of such one-year period shall be immediately reallocated by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallocated sums shall be added to the last allotments made to the States. Any sum made available to a State by reallocation under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately cred-

*Section 2 (a) and (b) of PL 96-483 amended or repealed portions of Section 204 (b) of the Federal Water Pollution Control Act.

**Sec. 2 of PL 96-483.

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ited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

(c)(1) Sums authorized to be appropriated pursuant to section 207 for the fiscal years during the period beginning October 1, 1977, and ending September 30, 1981, shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Clean Water Act of 1977. Notwithstanding any other provision of law, sums authorized for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives.

(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, 1984, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. Notwithstanding any other provision of law, sums authorized for the fiscal year ending September 30, 1982, shall be allotted in accordance with table 8 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, shall be allotted in accordance with the following table:

State:	Fiscal years 1983 through 1985
Alabama	.011398
Alaska	.006101
Arizona	.006885
Arkansas	.006658
California	.072901
Colorado	.008154
Connecticut	.012487
Delaware	.004965
District of Columbia	.004965
Florida	.084407
Georgia	.017234
Hawaii	.007895
Idaho	.004965
Illinois	.046101
Indiana	.024566
Iowa	.013795
Kansas	.009201
Kentucky	.012973
Louisiana	.011205
Maine	.007783
Maryland	.024653
Massachusetts	.034608
Michigan	.043529
Minnesota	.018735
Mississippi	.009184
Missouri	.028257
Montana	.004965
Nebraska	.005214
Nevada	.004965
New Hampshire	.010186
New Jersey	.041654
New Mexico	.004965
New York	.113097
North Carolina	.018396
North Dakota	.004965
Ohio	.057383
Oklahoma	.008235
Oregon	.011515
Pennsylvania	.040377
Rhode Island	.006750
South Carolina	.010442
South Dakota	.004965
Tennessee	.014807
Texas	.038726
Utah	.005371
Vermont	.004965
Virginia	.020861
Washington	.017726
West Virginia	.015890
Wisconsin	.027557
Wyoming	.004965
Guam	.000915
Northern Mariana	.000662
Puerto Rico	.000425
Pacific Trust Territories	.013295
Virgin Islands	.001305
United States totals	.999996

On 10/28/81 [Sec. 205(a)(2) added by PL 97-117]

(d) Sums allotted to the States for a fiscal year shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twelve months. The amount of any allotment not obligated by the end of such twenty-four-month period shall be immediately reallocated by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallocated by the Administrator for fiscal year 1978 and for fiscal years thereafter shall be allotted to any State which failed to obligate any of the funds being reallocated. Any sum made available to a State by reallocation under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

[Editor's note: Section 7 of PL 96-483 provides:

"Sec. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallocated by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallocated by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallocated. Any sum made available to a State by reallocation under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980."]

(e) For the fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, and 1985, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than thirty-three one-hundredths of 1 per centum on the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed \$75,000,000 for each of fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, and 1985. If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

[Sec. 205(e) amended by PL 97-117]

(f) Notwithstanding any other provision of this section, sums made available between January 1, 1975, and March 1, 1975, by the Administrator for obligation

shall be available for obligation until September 30, 1978.

(g) (1) The Administrator is authorized to reserve each fiscal year not to exceed 2 percentum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1977; except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, 1985, in which case the percentage authorized to be reserved shall not exceed 4 per centum, or \$400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment. Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.

[Sec. 205(g)(1) amended by PL 96-483; PL 97-117]

(2) The Administrator is authorized to grant to any State from amounts reserved to such State under this subsection, the reasonable costs of administering any aspects of sections 201, 203, 204, and 212 of this Act the responsibility for administration of which the Administrator has delegated to such State. The Administrator may increase such grant to take into account the reasonable costs of administering an approved program under section 402 or 404, administering a statewide waste treatment management planning program under section 208(b) (4), and managing waste treatment construction grants for small communities.

(h) The Administrator shall set aside from funds authorized for each fiscal year beginning on or after October 1, 1978, four per centum of the sums allotted to any State with a rural population of 25 per centum or more of the total population of such State, as determined by the Bureau of the Census. The Administrator may set aside no more than four per centum of the sums allotted to any other State for which the Governor requests such action. Such sums shall be available only for alternatives to conventional sewage treatment works for municipalities having a population of three thousand five hundred or less, or for the highly dispersed sections of larger municipalities, as defined by the Administrator.

(i) Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the ex-

penditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7 1/2 per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.

[Sec. 205(i) amended by PL 97-117]

(j)(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or \$100,000, whichever amount is the greater.

(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(D) determining those publicly owned treatment works which should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction; and implementing section 303(e) of this Act.

(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.

(4) All activities undertaken under this subsection shall be in coordination with other related provisions of this Act.

[Sec. 205(j) added by PL 97-117]

CONVENTION CENTER

(k) The Administrator shall allot to the State of New York from sums authorized to be appropriated for the fiscal year ending September 30, 1982, an amount necessary to pay the entire cost of conveying sewage from the Convention Center of the city of New York to the Newtown sewage treatment plant, Brooklyn-Queens area, New York. The amount allotted under this subsection shall be in addition to and not in lieu of any other amounts authorized to be allotted to such State under this Act.

[Sec. 205(k) added by PL 97-117]

REIMBURSEMENT AND ADVANCED CONSTRUCTION

Sec. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1973, which was approved

by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction shall be reimbursed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under such section 8 for such project and 50 per centum of the cost of such project, or 55 per centum of the project cost where the Administrator also determines that such treatment works was constructed in conformity with a comprehensive metropolitan treatment plan as described in section 8(f) of the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Nothing in this subsection shall result in any such works receiving Federal grants from all sources in excess of 80 per centum of the cost of such project.

(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

(c) No publicly owned treatment works shall receive any payment or reimbursement under subsection (a) or (b) of this section unless an application for such assistance is filed with the Administrator within the one year period which begins on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Any application filed within such one year period may be revised from time to time, as may be necessary.

[Editor's Note: Section 206(c) was amended by Public Law 93-207 as follows: "Sec. 29. Notwithstanding section 206(c) of the Federal Water Pollution Control Act and section 2 of Public Law 93-207, in the case of publicly owned treatment works for which a grant was made under the Federal Water Pollution Control Act, as amended by the Water Pollution Control Act Amendments of 1956 (Public Law 660, 84th Congress) before July 1, 1972; and on which construction was initiated before July 1, 1973, applications for assistance under such section 206 shall be filed not later than the ninetieth day after the date of enactment of the Clean Water Act of 1977."]

(d) The Administrator shall allocate to each qualified project under subsection (a) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such year bears to

the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriations. The Administrator shall allocate to each qualified project under subsection (b) of this section each fiscal year for which funds are appropriated under subsection (e) of this section an amount which bears the same ratio to the unpaid balance of the reimbursement due such project as the total of such funds for such years bears to the total unpaid balance of reimbursement due all such approved projects on the date of enactment of such appropriation.

[Editor's Note: Section 206 (d) was amended by Public Law 93-207 as follows: "Sec. 3. Funds available for reimbursement under Public Law 92-399 shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act (86 Stat. 838), pro rata among all projects eligible under subsection (a) of such section 206 for which applications have been submitted and approved by the Administrator pursuant to such Act. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each such project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206 (a) and (2) for the purpose of determining allocation of sums available under Public Law 92-399, the unpaid balance of reimbursement due such projects shall be computed as of January 31, 1974. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of such section 206, the Administrator shall, within the limits of appropriated funds, allocate to each such qualified project the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of such section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payments plus the Federal Share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project."]

(e) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed \$2,600,000,000 and to carry out subsection (b) of this section, not to exceed \$750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

(f)(1) In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator), and there is construction of any treatment work project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his ap-

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approval of an application made under this subsection therefor is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year —

(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 percentum as such appropriations do provide.

[Sec. 206 (f)(1) amended by PL 96-483]

(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

AUTHORIZATION

Sec. 207. There is authorized to be appropriated to carry out this title, other than sections 206 (e), 208 and 209, for the fiscal year ending June 30, 1973, not to exceed \$5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed \$6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed \$7,000,000,000, and, subject to such amounts as are provided in appropriation Acts, for the fiscal year ending September 30, 1977, \$1,000,000,000 for the fiscal year ending September 30, 1978, \$4,500,000,000 and for the fiscal years ending September 30, 1979, September 30, 1980, not to exceed \$5,000,000,000; for the fiscal year ending September 30, 1981, not to exceed \$2,548,837,000; and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed \$2,400,000,000 per fiscal year.

[Sec. 207 amended by PL 97-35; 97-117]

[Editor's note: Sec. 1801(b) of PL 97-35 provides:

"(b) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency

for the fiscal year ending September 30, 1982, not to exceed \$40,000,000 to carry out section 205(g) of the Federal Water Pollution Control Act. The Administrator shall make such authorization available to the States in accordance with such section 205(g) in the same manner and to the same extent as would be the case if \$2,000,000,000 had been authorized under section 207 of such Act, using the same allotment table as was applicable to the fiscal year ending September 30, 1981."

[Editor's Note: The "Urgent Supplemental Appropriations Act, 1982," PL 97-216, provides:

CONSTRUCTION GRANTS

"For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), except that for the project authorized by said section the Administrator shall allocate to the State of New York an amount equal to one-third of the total cost from the amount made available under this paragraph to the State of New York, one-third from the amount made available to the State of New Jersey, and one-third from the amounts made available to the remaining States, 206, 208, and 209, \$2,400,000,000, including grants for biological treatment facilities to repair or replace small community systems but not to exceed three systems suffering operational problems outside the warranty period where the existing Environmental Protection Agency planned systems have proven to be inoperable by the local municipalities, where determined to be necessary, to remain available until expended: *Provided*, That of such amount, \$3,965,426 in additional funds (the amount which was withheld from the State of Kansas by reason of an accounting error by the Federal Government) shall be made available to the State of Kansas: *Provided further*, That nothing herein shall prohibit any project specified in section 201(m) from receiving a grant under section 201(g), in compliance with all relevant procedures under title II of the Federal Water Pollution Control Act, as amended, and paid from funds allotted to the State by section 205 and appropriated by this Act: *Provided further*, That the Administrator, upon application by the Governor of the State of Ohio, with the approval of the Committees on Appropriations, shall before October 1, 1982, commit existing unobligated funds from the State's Wastewater Construction Grant allotments to fund the Solid Waste Energy facility in Akron, Ohio."

[Editor's note: The "Department of Housing and Urban Development — Independent Agencies Appropriation Act, 1983," (PL 97-272) provides the following concerning EPA's grants program:

CONSTRUCTION GRANTS

"For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, including sections 201(n)(2) and 201(m)(3), other than sections 206, 208, and 209, \$2,430,000,000, to remain available until expended."

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[Editor's note: The "Department of Housing and Urban Development — Independent Agencies Appropriation Act, 1984," (PL 98-45) contains the following provision concerning the grants program:

"CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1)-(3), 201(n)(2), 206, 208, and 209, \$2,400,000,000, to remain available until expended, and for projects under section 201(n)(2), subject to the approval of the Committees on Appropriations, \$30,000,000, to remain available until expended."]

[Editor's note: The "Department of Housing and Urban Development — Independent Agencies Appropriation Act, 1985," (PL 98-371) provides the following concerning construction grants:

"CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m) (1)-(3), 201(n)(2), 206, 208, and 209, \$2,400,000,000, to remain available until expended."]

[Editor's Note: Public Law 98-396, the Second Supplemental Appropriations Act, 1984, stipulates the following regarding construction of a treatment facility near San Diego, California:

"CONSTRUCTION GRANTS

[As amended by PL 99-88, the "Supplemental Appropriations Act, 1985]

Notwithstanding any other provision of law, for an additional amount for "Construction grants", \$5,000,000, for initial planning and design of a treatment works to address wastewater originating in Mexico, to remain available until September 30, 1986: *Provided*, That the total Federal contribution of the facility shall not exceed \$32,000,000: *Provided further*, That any facility constructed with these funds shall not have a treatment capacity exceeding 30,000,000 gallons per day: *Provided further*, That such funds shall, prior to receipt of any reimbursements, represent not more than 90 per centum of the initial planning and design cost: *Provided further*, That construction funds shall not be made available unless the President of the United States certifies to the Congress that the Government of Mexico has agreed to reimburse the United States for the cost of such facility in such a manner as the President of the United States in his discretion deems acceptable."]

AREAWIDE WASTE TREATMENT
MANAGEMENT

Sec. 208. (a) For the purpose of encouraging and facilitating the development and implementation of area-wide waste treatment management plans—

(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after consultation with appropriate elected and other officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization, including elected officials from local governments or their designees, capable of developing effective area-wide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

(4) If a Governor does not act, either by designating or determining not to make a designation under paragraph (2) of this subsection, within the time required by such paragraph, or if, in the case of an interstate area, the Governors of the States involved do not designate a

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planning organization within the time required by paragraph (3) of this subsection; the chief elected officials of local governments within an area may by agreement designate (A) the boundaries for such an area, and (B) a single representative organization including elected officials from such local governments, or their designees, capable of developing an areawide waste treatment management plan for such area.

(5) Existing regional agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

(6) The State shall act as a planning agency for all portions of such State which are not designated under paragraphs (2), (3), or (4) of this subsection.

(7) Designations under this subsection shall be subject to the approval of the Administrator.

(b) (1) (A) Not later than one year after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved. The initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than two years after the planning process is in operation.

(B) For any agency designated after 1975 under subsection (a) of this section and for all portions of a State for which the State is required to act as the planning agency in accordance with subsection (a) (6), the initial plan prepared in accordance with such process shall be certified by the Governor and submitted to the Administrator not later than three years after the receipt of the initial grant award authorized under subsection (f) of this section.

(2) Any plan prepared under such process shall include, but not be limited to—

(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works, and an identification of open space and recreation opportunities that can be expected to result from improved water quality, including consideration of potential use of lands associated with treatment works and increased access to water-based recreation;

(b) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

(C) the establishment of a regulatory program to—

(i) implement the waste treatment management requirements of section 201(c),

(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

(iii) assure that any industrial or commercial waste discharged into any treatment works in such area meet applicable pretreatment requirements;

(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

(F) a process to (i) identify, if appropriate, agriculturally and silviculturally related nonpoint sources of pollution, including return flows from irrigated agriculture, and their cumulative effects, runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan;

(J) a process to control the disposition of all residual waste generated in such area which could affect water quality; and

(K) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.

(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

(4) (A) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a statewide regulatory program under section 303 so requires, the requirements of clauses (F) through (K) of paragraph (2) of this subsection shall be developed and submitted by the Governor to the Administrator for approval for application to a class or category of activity throughout each State.

(B) Any program submitted under subparagraph (A) of this paragraph which, in whole or in part, is to control the discharge or other placement of dredged or fill

material into the navigable waters shall include the following:

(i) A consultation process which includes the State agency with primary jurisdiction over fish and wildlife resources;

(ii) A process to identify and manage the discharge or other placement of dredged or fill material which adversely affects navigable waters, which shall complement and be coordinated with a State program under section 404 conducted pursuant to this Act;

(iii) A process to assure that any activity conducted pursuant to a best management practice will comply with the guidelines established under section 404(b) (1), and sections 307 and 403 of this Act;

(iv) A process to assure that any activity conducted pursuant to a best management practice can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the best management practice;

(II) change in any activity that requires either a temporary or permanent reduction or elimination of the discharge pursuant to the best management practice;

(v) A process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory;

(C) If the Governor of a State obtains approval from the Administrator of a statewide regulatory program which meets the requirements of subparagraph (B) of this paragraph and if such State is administering a permit program under section 404 of this Act, no person shall be required to obtain an individual permit pursuant to such section, or to comply with a general permit issued pursuant to such section, with respect to any appropriate activity within such State for which a best management practice has been approved by the Administrator under the program approved by the Administrator pursuant to this paragraph.

(D) (i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with the requirements of this section, the Administrator shall so notify the State, and if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(ii) In the case of a State with a program submitted and approved under this paragraph, the Administrator shall withdraw approval of such program under this subparagraph only for a substantial failure of the State to administer its program in accordance with the requirements of this paragraph.

(c) (1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies (which may be an existing or

newly created local, regional or State agency or potential subdivision) for each area designated under subsection (a) of this section and submit such designations to the Administrator.

(2) The Administrator shall accept any such designation, unless, within 120 days of such designation, he finds that the designated management agency (or agencies) does not have adequate authority—

(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

(E) to raise revenues, including the assessment of waste treatment charges;

(F) to incur short- and long-term indebtedness;

(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

(I) to accept for treatment industrial wastes.

(d) After a waste treatment management agency having the authority required by subsection (c) has been designated under such subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201 (g) (1) within such area except to such designated agency and for works in conformity with such plan.

(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

(f) (1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) For the two-year period beginning on the date the first grant is made under paragraph (1) of this subsection to an agency, if such first grant is made before October 1, 1977, the amount of each such grant to such agency shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section, and thereafter the amount granted to such agency shall not exceed 75 per centum of such costs in each succeeding one-year period. In the case of any other grant made to an agency under such paragraph (1)

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of this subsection, the amount of such grant shall not exceed 75 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process in any year.

(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed \$50,000,000 for the fiscal year ending June 30, 1973, not to exceed \$100,000,000 for the fiscal year ending June 30, 1974, and not to exceed \$150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, and not to exceed \$100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982.

[Sec. 208(f)(3) amended by PL'96-483]

(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

(h) (1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed \$50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

(i) (1) The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall, upon request of the Governor of a State, and without reimbursement, provide technical assistance to such State in developing a statewide program for submission to the Administrator under subsection (b) (4) (B) of this section and in implementing such program after its approval.

(2) There is authorized to be appropriated to the Secretary of the Interior \$6,000,000 to complete the National Wetlands Inventory of the United States, by December 31, 1981, and to provide information from such Inventory to States as it becomes available to assist such States in the development and operation of programs under this Act.

(j) (1) The Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the De-

partment of Agriculture as the Secretary may designate, is authorized and directed to establish and administer a program to enter into contracts of not less than five years nor more than ten years with owners and operators having control of rural land for the purpose of installing and maintaining measures incorporating best management practices to control nonpoint source pollution for improved water quality in those States or areas for which the Administrator has approved a plan under subsection (b) of this section, where the practices to which the contracts apply are certified by the management agency designated under subsection (c) (1) of this section to be consistent with such plans and will result in improved water quality. Such contracts may be entered into during the period ending not later than September 31, 1988. Under such contracts the land owner or operator shall agree—

(i) to effectuate a plan approved by a soil conservation district, where one exists, under this section for his farm, ranch, or other land substantially in accordance with the schedule outlined therein unless any requirement thereof is waived or modified by the Secretary;

(ii) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments and grants received thereunder, with interest, upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the soil conservation district where one exists, and the Administrator, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(iii) upon transfer of his right and interest in the farm, ranch, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder, with interest, unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(iv) not to adopt any practice specified by the Secretary on the advice of the Administrator in the contract as a practice which would tend to defeat the purposes of the contract;

(v) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program.

(2) In return for such agreement by the landowner or operator the Secretary shall agree to provide technical assistance and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost sharing is appropriate and in the public interest and which are approved for cost sharing by the agency designated to implement the plan developed under subsection (b) of this section. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the installation of the water quality management practices and mea-

...sures under the contract, but not to exceed 50 per centum of the total cost of the measures set forth in the contract; except the Secretary may increase the matching cost share where he determines that (1) the main benefits to be derived from the measures are related to improving offsite water quality; and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(3) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other conservation, land use, or water quality programs.

(4) In providing assistance under this subsection the Secretary will give priority to those areas and sources that have the most significant effect upon water quality. Additional investigations or plans may be made, where necessary, to supplement approved water quality management plans, in order to determine priorities.

(5) The Secretary shall, where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program established in this subsection under regulations developed by the Secretary. Such agreements shall provide for the submission of such reports as the Secretary deems necessary, and for payment by the United States of such portion of the costs incurred in the administration of the program as the Secretary may deem appropriate.

(6) The contracts under this subsection shall be entered into only in areas where the management agency designated under subsection (c) (1) of this section assures an adequate level of participation by owners and operators having control of rural land in such areas. Within such areas the local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine the priority of assistance among individual landowners and operators to assure that the most critical water quality problems are addressed.

(7) The Secretary, in consultation with the Administrator and subject to section 304(k) of this Act, shall, not later than September 30, 1978, promulgate regulations for carrying out this subsection and for support and cooperation with other Federal and non-Federal agencies for implementation of this subsection.

(8) This program shall not be used to authorize or finance projects that would otherwise be eligible for assistance under the terms of Public Law 83-566.

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture \$200,000,000 for fiscal year 1979, \$400,000,000 for fiscal year 1980, \$100,000,000 for fiscal year 1981, and \$100,000,000 for fiscal year 1982, to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

[Sec. 208(j)(9) amended by PL 96-483]

BASIN PLANNING

Sec. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated under paragraphs (2), (3), and (4) of subsection (a) of section 208 of this Act.

(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

(c) There is authorized to be appropriated to carry out this section not to exceed \$200,000,000.

ANNUAL SURVEY

Sec. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

SEWAGE COLLECTION SYSTEMS

Sec. 211. (a) No grant shall be made for a sewage collection system under this title unless such grant (1) is for replacement or major rehabilitation of an existing collection system and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (2) is for a new collection system in an existing community with sufficient existing or planned capacity adequately to treat such collected sewage and is consistent with section 201 of this Act.

(b) If the Administrator uses population density as a test for determining the eligibility of a collector sewer for assistance it shall be only for the purpose of evaluating alternatives and determining the needs for such system in relation to ground or surface water quality impact.

(c) No grant shall be made under this title from funds authorized for any fiscal year during the period beginning October 1, 1977, and ending September 30, 1985, for treatment works for control of pollutant discharges from separate storm sewer systems.

[Sec. 211(c) amended by PL 97-117]

DEFINITIONS

Sec. 212. As used in this title—

(1) The term "construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, field testing of innovative

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or alternative waste water treatment processes and techniques meeting guidelines promulgated under section 304(d)(3) of this Act, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

[Sec. 212(1) amended by PL 97-117]

(2) (A) The term "treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment.

(B) In addition to the definition contained in subparagraph (A) of this paragraph, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this act, or the requirements of section 201 of this act.

(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost effective analysis, described in subparagraph (B) of this paragraph.

(3) The term "replacement" as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

Sec. 213. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal

and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this title (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this title, including, but not limited to, projects eligible for reimbursement under section 206 of this title.

(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, any funds received by such grantee from the amounts appropriated under section 206 of this act.

[Sec. 213(d) amended by PL 96-483]

PUBLIC INFORMATION

Sec. 214. 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.

REQUIREMENTS FOR AMERICAN MATERIALS

Sec. 215. Notwithstanding any other provision of law, no grant for which application is made after February 1, 1978, shall be made under this title for any treatment works unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States will be used in such treatment works. This section shall not apply in any case where the Administrator determines, based upon those factors the Administrator deems

relevant, including the available resources of the agency, it to be inconsistent with the public interest (including multilateral government procurement agreements) or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, material, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

DETERMINATION OF PRIORITY

Sec. 216. Notwithstanding any other provision of this Act, the determination of the priority to be given each category of projects for construction of publicly owned treatment works within each State shall be made solely by that State, except that if the Administrator, after a public hearing, determines that a specific project will not result in compliance with the enforceable requirements of this Act, such project shall be removed from the State's priority list and such State shall submit a revised priority list. These categories shall include, but not be limited to (A) secondary treatment, (B) more stringent treatment, (C) infiltration-in-flow correction, (D) major sewer system rehabilitation, (E) new collector sewers and appurtenances, (F) new interceptors and appurtenances, and (G) correction of combined sewer overflows. Not less than 25 per centum of funds allocated to a State in any fiscal year under this title for construction of publicly owned treatment works in such State shall be obligated for those types of projects referred to in clauses (D), (E), (F), and (G) of this section, if such projects are on such State's priority list for that year and are otherwise eligible for funding in that fiscal year. It is the policy of Congress that projects for wastewater treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be projects which, in the estimation of the State, are designed to achieve optimum water quality management, consistent with the public health and water quality goals and requirements of the Act.

[Sec. 216 amended by PL 97-117]

COST-EFFECTIVENESS GUIDELINES

Sec. 217. Any guidelines for cost-effectiveness analysis published by the Administrator under this title shall provide for the identification and selection of cost effective alternatives to comply with the objective and goals of this Act and sections 201 (b), 201 (d), 201 (g) (2) (A), and 301 (b) (2) (B) of this Act.

COST EFFECTIVENESS

Sec. 218. (a) It is the policy of Congress that a project for waste treatment and management undertaken with Federal financial assistance under this Act by any State, municipality, or intermunicipal or interstate agency shall be considered as an overall waste treatment system for waste treatment and management, and shall be that system which constitutes the most economical and cost-effective combination of devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping power, and other equipment, and

their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process (including land use for the storage of treated wastewater in land treatment systems prior to land application) or which is used for ultimate disposal of residues resulting from such treatment; water efficiency measures and devices; and any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems; to meet the requirements of this Act.

(b) In accordance with the policy set forth in subsection (a) of this section, before the Administrator approves any grant to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of any treatment works the Administrator shall determine that the facilities plan of which such treatment works are a part constitutes the most economical and cost-effective combination of treatment works over the life of the project to meet the requirements of this Act, including, but not limited to, consideration of construction costs, operation, maintenance, and replacement costs.

(c) In furtherance of the policy set forth in subsection (a) of this section, the Administrator shall require value engineering review in connection with any treatment works, prior to approval of any grant for the erection, building, acquisition, alteration, remodeling, improvement, or extension of such treatment works, in any case in which the cost of such erection, building, acquisition, alteration, remodeling, improvement, or extension is projected to be in excess of \$10,000,000. For purposes of this subsection, the term "value engineering review" means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

(d) This section applies to projects for waste treatment and management for which no treatment works including a facilities plan for such project have received Federal financial assistance for the preparation of construction plans and specifications under this Act before the date of enactment of this section.

[Sec. 218 added by PL 97-117]

STATE CERTIFICATION OF PROJECTS

Sec. 219. Whenever the Governor of a State which has been delegated sufficient authority to administer the construction grant program under this title in that State certifies to the Administrator that a grant application meets applicable requirements of Federal and State law for assistance under this title, the Administrator shall approve or disapprove such application within 45 days of the date of receipt of such application. If the Administrator does not approve or disapprove such application within 45 days of receipt, the application shall be deemed approved. If the Administrator disapproves such application the Administrator shall state in writing the reasons for such disapproval. Any grant approved or deemed approved under this section shall be subject to amounts provided in appropriation Acts.

[Sec. 219 added by PL 97-117]

TITLE III—STANDARDS AND ENFORCEMENT

EFFLUENT LIMITATIONS

Sec. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved—

(1) (A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304 (b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pre-

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treatment requirements and any requirements under section 307 of this Act; and not (A) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d) (1) of this Act; or,

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedule of compliance, established pursuant to any State law or regulations, (under authority preserved by section 510) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

(2) (A) for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which (i) shall require application of the best available technology economically achievable for such category or class, which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) (2) of this Act, which such effluent limitations shall require the elimination of discharges of all pollutants if the Administrator finds, on the basis of information available to him (including information developed pursuant to section 315), that such elimination is technologically and economically achievable for category or class of point sources as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) (2) of this Act or (ii) in the case of the introduction of a pollutant into a publicly owned treatment works which meets the requirements of subparagraph (b) of this paragraph, shall require compliance with any applicable pretreatment requirements and any other requirement under section 307 of this Act;

(B) [Repealed]

[Sec. 301(b)(2)(B) repealed by PL 97-117]

(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Number 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph;

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 307 of this Act which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitation in accordance with subparagraph (A) of this paragraph not later than three years after the date such limitations are established;

(E) not later than July 1, 1984, effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 304(a) (4) of this Act shall require application of the best conventional pollutant control technology as determined in ac-

cordance with regulations issued by the Administrator pursuant to section 304(b) (4) of this Act; and (3) not

(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than 3 years after the date such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.

(c) The Administrator may modify the requirements of subsection (b) (2) (A) of this section with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the Administrator that such modified requirements (1) will represent the maximum use of technology within the economic capability of the owner or operator; and (2) will result in reasonable further progress toward the elimination of the discharge of pollutants.

(d) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

(e) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

(f) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

(g) (1) The Administrator, with the concurrence of the State, shall modify the requirements of subsection (b) (2) (A) of this section with respect to the discharge of any pollutant (other than pollutants identified pursuant to section 304(a) (4) of this Act, toxic pollutants subject to section 307 (a) of this Act, and the thermal component of discharges from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that—

(A) such modified requirements will result at a minimum in compliance with the requirements of subsection (b) (1) (A) or (C) of this section, whichever is applicable;

(B) such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(C) such modification will not interfere with the attainment of maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

(2) If an owner or operator of a point source applies for a modification under this subsection with respect to the discharge of any pollutant, such owner or operator

shall be eligible to apply for modification under subsection (c) of this section with respect to such pollutant only during the same time-period as he is eligible to apply for a modification under this subsection.

(h) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b) (1) (B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a) (6) of this Act;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

(8) [Deleted]

[Sec. 301(h)(8) deleted by PL 97-117]

For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act. A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.

[Sec. 301(h) amended by PL 97-117]

(i) (I) Where construction is required in order for a planned or existing publicly owned treatment works to

achieve limitations under subsection (b) (1) (B) or (b) (1) (C) of this section, but (A) construction cannot be completed within the time required in such subsection; or (B) the United States has failed to make financial assistance under this Act available in time to achieve such limitations by the time specified in such subsection, the owner or operator of such treatment works may request the Administrator (or if appropriate the State) to issue a permit pursuant to section 402 of this Act or to modify a permit issued pursuant to that section to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment of this subsection. The Administrator (or if appropriate the State) may grant such request and issue or modify such a permit, which shall contain a schedule of compliance for the publicly owned treatment works based on the earliest date by which such financial assistance will be available from the United States and construction can be completed, but in no event later than July 1, 1988, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations applicable to that treatment works as the Administrator determines are necessary to carry out the provisions of this Act.

(2) (A) Where a point source (other than a publicly owned treatment works) will not achieve the requirements of subsections (b) (1) (A) and (b) (1) (C) of this section and—

(i) if a permit issued prior to July 1, 1977, to such point source is based upon a discharge into a publicly owned treatment works; or

(ii) if such point source (other than a publicly owned treatment works) had before July 1, 1977, a contract (enforceable against such point source) to discharge into a publicly owned treatment works; or

(iii) if either an application made before July 1, 1977, for a construction grant under this Act for a publicly owned treatment works, or engineering or architectural plans or working drawings made before July 1, 1977, for a publicly owned treatment works, show that such point source was to discharge into such publicly owned treatment works, and such publicly owned treatment works is presently unable to accept such discharge without construction, and in the case of a discharge to an existing publicly owned treatment works, such treatment works has an extension pursuant to paragraph (1) of this subsection, the owner or operator of such point source may request the Administrator (or if appropriate the State) to issue or modify such a permit pursuant to such section 402 to extend such time for compliance. Any such request shall be filed with the Administrator (or if appropriate the State) within 180 days after the date of enactment of this subsection or the filing of a request by the appropriate publicly owned treatment works under paragraph (1) of this subsection, whichever is later. If the Administrator (or if appropriate the State) finds that the owner or operator of such point source has acted in good faith, he may grant such request and issue or modify such a permit, which shall contain a schedule of

compliance for the point source to achieve the requirements of subsections (b) (1) (A) and (C) of this section and shall contain such other terms and conditions, including pretreatment and interim effluent limitations and water conservation requirements applicable to that point source, as the Administrator determines are necessary to carry out the provisions of this Act.

(B) No time modification granted by the Administrator (or if appropriate the State) pursuant to paragraph (2) (A) of this subsection shall extend beyond the earliest date practicable for compliance or beyond the date of any extension granted to the appropriate publicly owned treatment works pursuant to paragraph (1) of this subsection, but in no event shall it extend beyond July 1, 1988; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1988, and will meet the requirements to subsections (b) (1) (B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires point source to meet all requirements under section 307 (a) and (b) during the period of such time modification.

[Sec. 301(i) amended by PL 97-117]

[Editor's note: Section 21 of PL 97-117 in addition to extending the compliance date from July 1, 1983 to July 1, 1988, also provides: "The amendment made by this subsection shall not be interpreted or applied to extend the date for compliance with section 301(b)(1) (B) or (C) of the Federal Water Pollution Control Act beyond schedules for compliance in effect as of the date of enactment of this Act, except in cases where reductions in the amount of financial assistance under this Act or changed conditions affecting the rate of construction beyond the control of the owner or operator will make it impossible to complete construction by July 1, 1983."]

(j) (1) Any application filed under this section for a modification of the provisions of—

(A) subsection (b)(1)(B) under subsection (h) of this section shall be filed not later than the 365th day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981;

[Sec. 301(j)(1)(A) revised by PL 97-117]

[Editor's note: Section 22(e) of PL 97-117 provides:

"(e) The amendments made by this section shall take effect on the date of enactment of this Act, except that no applicant, other than the city of Avalon, California, who applies after the date of enactment of this Act for a permit pursuant to subsection (h) of section 301 of the Federal Water Pollution Control Act which modifies the requirements of subsection (b)(1)(B) of section 301 of such Act shall receive such permit during the one-year period which begins on the date of enactment of this Act.")

(B) subsection (b) (2) (A) as it applies to pollutants identified in subsection (b) (2) (F) shall be filed not later

than 270 days after the date of promulgation of an applicable effluent guideline under section 304 or not later than 270 days after the date of enactment of the Clean Water Act of 1977, whichever is later.

(2) Any application for a modification filed under subsection (g) of this section shall not operate to stay any requirement under this Act, unless in the judgment of the Administrator such a stay or the modification sought will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities, and that there is a substantial likelihood that the applicant will succeed on the merits of such application. In the case of an application filed under subsection (g) of this section, the Administrator may condition any stay granted under this paragraph on requiring the filing of a bond or other appropriate security to assure timely compliance with the requirements from which a modification is sought.

(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection (b) (2) (A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the system which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402, in consultation with the Administrator) may establish a date for compliance under subsection (b) (2) (A) of this section no later than July 1, 1987, if it is also determined that such innovative system has the potential for industrywide application.

(l) The Administrator may not modify any requirement of this section as it applies to any specific pollutant which is on the toxic pollutant list under section 307(a) (1) of this Act.

[Sec. 301(m) added by PL 97-440]

(m)(l) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds that—

(A) the facility for which modification is sought is covered at the time of the enactment of this subsection by National Pollutant Discharge Elimination System permit number CA0005894 or CA0005282;

(B) the energy and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota;

(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit;

(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act;

(G) the applicant accepts as a condition to the permit a contractual obligation to use funds in the amount required (but not less than \$250,000 per year for ten years) for research and development of water pollution control technology, including but not limited to closed cycle technology;

(H) the facts and circumstances present a unique situation which, if relief is granted, will not establish a precedent or the relaxation of the requirements of this Act applicable to similarly situated discharges; and

(I) no owner or operator of a facility comparable to that of the applicant situated in the United States has demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection.

(2) The effluent limitations established under a permit issued under paragraph (1) shall be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife, and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for one additional period not to exceed five years upon a demonstration by the applicant and a finding by the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown: *Provided*, That if the effluent from a source with a permit issued under this subsection is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

WATER QUALITY RELATED EFFLUENT LIMITATIONS

Sec. 302. (a) Whenever, in the judgment of the Administrator discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b) (2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

(b) (1) Prior to establishment of any effluent limitations pursuant to subsection (a) of this section, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic and social costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the Administrator shall adjust such limitation as it applies to such person.

(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

Sec. 303. (a) (1) In order to carry out the purpose of this Act, any water quality standard applicable to inter-

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state waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determines that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3) (A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b) (1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water

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quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c) (1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninety day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

[Editor's note: Section 24 of PL 97-117 provides:

"REVISED WATER QUALITY STANDARDS

SEC. 24. The review, revision, and adoption or promulgation of revised or new water quality standards pursuant to section 303(c) of the Federal Water Pollution Control Act shall be completed by the

date three years after the enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. No grant shall be made under title II of the Federal Water Pollution Control Act after such date until water quality standards are reviewed and revised pursuant to section 303(c), except where the State has in good faith submitted such revised water quality standards and the Administrator has not acted to approve or disapprove such submission within one hundred and twenty days of receipt."]

(d) (1) (A) Each state shall identify those waters within its boundaries for which the effluent limitations required by section 301(b) (1) (A) and section 301(b) (1) (B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 301 are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1) (A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 304(a) (2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1) (D) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 304(a) (2) (D), for his approval the waters identified and the loads established under paragraphs (1) (A), (1) (B), (1) (C), and (1) (D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such

waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) (A) and (1) (B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a) (2) as suitable for such calculation and for thermal discharges, at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish and wildlife.

(c) (1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b) (1), section 301(b) (2), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works re-

quired to meet the applicable requirements of sections 301 and 302.

(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b) (1) and 301 (b) (2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Water quality standards relating to heat shall be consistent with the requirements of section 316 of this Act.

(h) For the purposes of this Act the term "water quality standards" includes thermal water quality standards.

INFORMATION AND GUIDELINES

Sec. 304. (a) (1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 303, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

(4) The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pol-

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lutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5) (A) The Administrator, to the extent practicable before consideration of any request under section 301(g) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 301(h) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(6) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annually thereafter, for purposes of section 301(h) of this Act publish and revise as appropriate information identifying each water quality standard in effect under this Act of State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

(1) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b) (1) of section 301 of this Act shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(2) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices, achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b) (2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate;

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants; and

(4) (A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 301(b) (2) (E) of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), and such other factors as the Administrator deems appropriate.

(c) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within 270 days after enactment of this title (and from time to time thereafter)

information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

(d) (1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after the date of enactment of this subsection guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 201(g) (5) of this Act.

(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.

[Sec. 304(d)(4) added by PL 97-117]

(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307(a) (1) or 311 of this Act, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and may contribute significant amounts of such pollutants to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 301, 302, 306, 307, or 403, as the case may be, in any permit issued to a point source pursuant to section 402 of this Act.

(f) The Administrator, after consultation with appropriate Federal and State agencies and other inter-

ested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(g) (1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

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

(h) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

(i) The Administrator shall (1) within sixty days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 402 of this Act, and (2) within sixty days from the date of enactment of this title promulgate guidelines estab-

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lishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

- (A) monitoring requirements;
- (B) reporting requirements (including procedures to make information available to the public);
- (C) enforcement provisions; and
- (D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

(j) The administrator shall issue information biennially on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned freshwater lakes.

(k) (1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection, \$100,000,000 per fiscal year for the fiscal years 1979 through 1983.

WATER QUALITY INVENTORY

Sec. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies shall prepare a report to be submitted to the Congress on or before January 1, 1974, which shall—

(1) describe the specific quality, during 1973, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

(2) include an inventory of all point sources of dis-

charge (based on a qualitative and quantitative analysis of discharges) of pollutants, into all navigable waters and the waters of the contiguous zone; and

(3) identify specifically those navigable waters, the quality of which—

(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

(B) can reasonably be expected to attain such level by 1977 or 1983; and

(C) can reasonably be expected to attain such level by any later date.

(b) (1) Each State shall prepare and submit to the Administrator by April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter, a report which shall include—

(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

(D) an estimate of (i) the environmental impact, (ii) the economic and social costs necessary to achieve the objective of this Act in such State, (iii) the economic and social benefits of such achievement, and (iv) an estimate of the date of such achievement; and

(E) a description of the nature and extent of non-point sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before October 1, 1975, and October 1, 1976, and biennially thereafter.

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NATIONAL STANDARDS OF PERFORMANCE

Sec. 306. (a) For purposes of this section:

(1) The term "standard of performance" means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

(2) The term "new source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

(3) The term "source" means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

(4) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a source.

(5) The term "construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(b) (1) (A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

- pulp and paper mills;
- paperboard, builders paper and board mills;
- meat product and rendering processing;
- dairy product processing;
- grain mills;
- canned and preserved fruits and vegetables processing;
- canned and preserved seafood processing;
- sugar processing;
- textile mills;
- cement manufacturing;
- feedlots;
- electroplating;
- organic chemicals manufacturing;
- inorganic chemicals manufacturing;
- plastic and synthetic materials manufacturing;
- soap and detergent manufacturing;
- fertilizer manufacturing;
- petroleum refining;
- iron and steel manufacturing;
- nonferrous metals manufacturing;
- phosphate manufacturing;
- steam electric powerplants;
- ferroalloy manufacturing;
- leather tanning and finishing;
- glass and asbestos manufacturing;
- rubber processing; and
- timber products processing.

(B) As soon as practicable, but in no case more than one year after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration the cost of achieving such effluent reduction, and any non-water quality environmental impact and energy requirements.

(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

(3) The provisions of this section shall apply to any new source owned or operated by the United States.

(c) Each State may develop and submit to the Administrator a procedure under State law for applying and enforcing standards of performance for new sources located in such State. If the Administrator finds that the procedure and the law of any State require the application and enforcement of standards of performance to at least the same extent as required by this section, such State is authorized to apply and enforce such standards of performance (except with respect to new sources owned or operated by the United States).

(d) Notwithstanding any other provision of this Act, any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance shall not be subject to any more stringent standard of performance during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

(e) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

TOXIC AND PRETREATMENT
EFFLUENT STANDARDS

Sec. 307. (a) (1) On and after the date of enactment of the Clean Water Act of 1977, the list of toxic pollutants or combination of pollutants subject to this Act

shall consist of those toxic pollutants listed in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives, and the Administrator shall publish, not later than the thirtieth day after the date of enactment of the Clean Water Act of 1977, that list. From time to time thereafter, the Administrator may revise such list and the Administrator is authorized to add or remove from such list any pollutant. The Administrator in publishing any revised list, including the addition or removal of any pollutant from such list, shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms, and the nature and extent of the effect of the toxic pollutant on such organisms. A determination of the Administrator, under this paragraph shall be final except that if, on judicial review, such determination was based on arbitrary and capricious action of the Administrator, the Administrator shall make a redetermination.

[Editor's note: Table 1 is published at the end of the Act.]

(2) Each toxic pollutant listed in accordance with paragraph (1) of this subsection shall be subject to effluent limitations resulting from the application of the best available technology economically achievable for the applicable category or class of point sources established in accordance with section 301(b) (2) (A) and 304(b) (2) of this Act. The Administrator, in his discretion, may publish in the Federal Register a proposed effluent standard (which may include a prohibition) establishing requirements for a toxic pollutant which, if an effluent limitation is applicable to a class or category of point sources, shall be applicable to such category or class only if such standard imposes more stringent requirements. Such published effluent standard (or prohibition) shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and the extent to which effective control is being or may be achieved under other regulatory authority. The Administrator shall allow a period of not less than sixty days following publication of any such proposed effluent standard (or prohibition) for written comment by interested persons on such proposed standard. In addition, if within thirty days of publication of any such proposed effluent standard (or prohibition) any interested person so requests, the Administrator shall hold a public hearing in connection therewith. Such a public hearing shall provide an opportunity for oral and written presentations, such cross-examination as the Administrator determines is appropriate on disputed issues of material fact, and the transcription of a verbatim record which shall be available to the public. After consideration of such comments and any information and material presented at any public hearing held on such proposed standard or prohibition, the Administrator shall promulgate such standards (or prohibition)

with such modifications as the Administrator finds are justified. Such promulgation by the Administrator shall be made within two hundred and seventy days after publication of proposed standard (or prohibition). Such standard (or prohibition) shall be final except that if, on judicial review, such standard was not based on substantial evidence, the Administrator shall promulgate a revised standard. Effluent limitations shall be established in accordance with sections 301(b) (2) (A) and 304(b) (2) for every toxic pollutant referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives as soon as practicable after the date of enactment of the Clean Water Act of 1977, but no later than July 1, 1980. Such effluent limitations or effluent standards (or prohibitions) shall be established for every other toxic pollutant listed under paragraph (1) of this subsection as soon as practicable after it is so listed.

(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply. Any disposal of dredged material may be included in such a category of sources after consultation with the Secretary of the Army.

(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case, more than one year from the date of such promulgation. If the Administrator determines that compliance within one year from the date of promulgation is technologically infeasible for a category of sources, the Administrator may establish the effective date of the effluent standard (or prohibition) for such category at the earliest date upon which compliance can be feasibly attained by sources within such category, but in no event more than three years after the date of such promulgation.

(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

(b) (1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the

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Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works. If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works."

(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternative change, revise such standards following the procedure established by this subsection for promulgation of such standards.

(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

(c) In order to insure that any source introducing pollutants into a publicly owned treatment works, which source would be a new source subject to section 306 if it were to discharge pollutants, will not cause a violation of the effluent limitations established for any such treatment works, the Administrator shall promulgate pretreatment standards for the category of such sources simultaneously with the promulgation of standards of performance under section 306 for the equivalent category of new sources. Such pretreatment standards shall prevent the discharge of any pollutant into such treatment works, which pollutant may interfere with, pass through, or otherwise be incompatible with such works.

(d) After the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

INSPECTIONS; MONITORING AND ENTRY

Sec. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) de-

veloping or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, 404 (relating to State permit programs), and 504 of this Act—

(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

(B) the Administrator or his authorized representative, upon presentation of his credentials—

(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(b) Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards, and (2) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

(c) Each State may develop and submit to the Administrator procedures under State law for inspection, monitoring, and entry with respect to point sources located in such State. If the Administrator finds that the procedures and the law of any State relating to inspection, monitoring, and entry are applicable to at least the same extent as those required by this section, such State is authorized to apply and enforce its procedures for inspection, monitoring, and entry with respect to point sources located in such State (except with respect to point sources owned or operated by the United States).

FEDERAL ENFORCEMENT

Sec. 309. (a) (1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, 318, or 405 of this Act in a permit issued by a State under an approved permit program under section 402 or 404 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of "federally assumed enforcement"), except where an extension has been granted under paragraph (5) (B) of this subsection, the Administrator shall enforce any permit condition or limitation with respect to any person—

(A) by issuing an order to comply with such condition or limitation, or

(B) by bringing a civil action under subsection (b) of this section.

(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, 318, or 405 of this Act, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by him or by a State or in a permit issued under section 404 of this Act by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

(5) (A) Any order issued under this subsection shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a time the Administrator determines to be reasonable in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(B) The Administrator may, if he determines (i) that any person who is a violator of, or any person who is otherwise not in compliance with, the time requirements under this Act or in any permit issued under this Act, has acted in good faith, and has made a commitment (in the form of contracts or other securities) of necessary resources to achieve compliance by the earliest possible date after July 1, 1977, but not later than April 1, 1979; (ii) that any extension under this provision will not result in the imposition of any additional controls on any other point or nonpoint source; (iii) that an application for a permit under section 402 of this Act was filed for such person prior to December 31, 1974; and (iv) that the facilities necessary for compliance with such requirements are under construction, grant an extension of the date referred to in section 301(b) (1) (A) to a date which will achieve compliance at the earliest time possible but not later than April 1, 1979.

(6) Whenever, on the basis of information available to him, the Administrator finds (A) that any person is in violation of section 301(b) (1) (A) or (C) of this Act, (B) that such person cannot meet the requirements for a time extension under section 301(i) (2) of this Act, and (C) that the most expeditious and appropriate means of compliance with this Act by such person is to discharge into a publicly owned treatment works, then, upon request of such person, the Administrator may issue an order requiring such person to comply with this Act at the earliest date practicable, but not later than July 1, 1983, by discharging into a publicly owned treatment works if such works concur with such order. Such order shall include a schedule of compliance.

(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(c) (1) Any person who willfully or negligently violates section 301, 302, 306, 307, or 308 of this Act, or any permit condition or limitation implementing any of such actions in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by a State, shall be punished by a fine of not less than \$2,500 nor more than

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\$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(3) For the purposes of this subsection, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

(d) Any person who violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, or in a permit issued under section 404 of this Act by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

(f) Whenever, on the basis of an information available to him, the Administrator finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, the Administrator may notify the owner or operator of such treatment works and the State of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within 30 days of the date of such notification, the Administrator may commence a civil action for appropriate relief, including but not limited to, a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Administrator shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court of the United States in the district in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with this Act. Notice of commencement of any such action shall be given to the State. Nothing in this

subsection shall be construed to limit or prohibit any other authority the Administrator may have under this Act. ~~Nothing in this subsection shall be construed to limit or prohibit any other authority the Administrator may have under this Act.~~

INTERNATIONAL POLLUTION ABATEMENT

Sec. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

(d) In connection with any hearing called under this subsection, the board is authorized to require any per-

son whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe; and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of \$1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

(e) Board members, other than officers or employees of Federal, State, or local governments, shall be for each day (including travel-time) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

OIL AND HAZARDOUS SUBSTANCE LIABILITY

Sec. 311. (a) For the purpose of this section, the term—

(1) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems.

[311(a)(2) amended by PL 95-576]

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

(4) "public vessel" means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(7) "person" includes an individual, firm, corporation, association, and a partnership;

(8) "remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United

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"States" and is located in, on, or under any other waters, other than a vessel or a public vessel;

(12) "act of God" means an act occasioned by an unanticipated grave natural disaster;

(13) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(14) "hazardous substance" means any substance designated pursuant to subsection (b) (2) of this section;

(15) "inland oil barge" means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

(16) "inland waters of the United States" means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway;

(17) "Otherwise subject to the jurisdiction of the United States" means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.

[311(a)(17) added by PL 95-576]

(b) (1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1977, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976).

[311(b)(1) amended by PL 96-561]

(2) (A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

[311(b)(2)(A) amended by PL 96-561]

(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of

owners, operators, or persons in charge of onshore facilities, offshore facilities or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.

[Editor's note: 311(b)(2)(B) was revised by PL 95-576. As embodied in PL 92-500 subclause (bb) of 311(b)(2)(B) reads as follows:

"(bb) a penalty determined by the number of units discharged multiplied by the amount established for such unit under clause (iv) of this subparagraph, but such penalty shall not be more than \$5,000,000 in the case of a discharge from a vessel and \$500,000 in the case of a discharge from an onshore or offshore facility."

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976), where permitted under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

[311(b)(3) revised by PL 95-576; amended by PL 96-478; PL 96-561]

(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

[311(b)(4) amended by PL 95-576]

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of

such discharge. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3) (i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than \$10,000, or imprisoned for not more than one year or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

[311(b)(4) amended by PL 95-576]

(6) (A) Any owner, operator, or person in charge of any onshore facility or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than \$5,000 for each offense. Any owner, operator, or person in charge of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3) (i) of this subsection, and any owner, operator, or person in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3) (ii) who is otherwise subject to the jurisdiction of the United States at the time of the discharge, shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than \$5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

(B) The Administrator, taking into account the gravity of the offense, and the standard of care manifest by the owner, operator or person in charge, may commence a civil action against any such person subject to the penalty under subparagraph (A) of this paragraph to impose a penalty based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner,

operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of such penalty shall not exceed \$50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such penalty shall not exceed \$250,000. Each violation is a separate offense.

Any action under this subparagraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty. No action may be commenced under this clause where a penalty has been assessed under clause (A) of this paragraph.

(C) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(D) Any cost of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

(E) Civil penalties shall not be assessed under both this section and section 309 for the same discharge.

[(B)-(E) added by PL 95-576]

(c) (1) Whenever any oil or a hazardous substance is discharged, or there is a substantial threat of such discharge, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act of 1976) the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

[311(c)(1) amended by PL 96-561]

(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances; and shall include, but not be limited to—

(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

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(B) identification, procurement, maintenance, and storage of equipment and supplies; and

(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies;

(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters; and

(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law

governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof) shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

(c) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

(f) (1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party, without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b) (3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed, in the case of an inland oil barge, \$125 per gross ton of such barge, or \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

[Editor's Note: SEC. 58(d) (2) of the Clean Water Act of 1977 increased liability under Subsection 311(f) (1) of the Act. SEC. 58(j) of the 1977 Act provides:

"(j) No vessel subject to the increased amounts which result from the amendments made by subsections (d) (2), (d) (3), and (d) (4) of this section shall be required to establish any evidence of financial responsibility under section 311(p) of the Federal Water Pollution Control Act for such increased amounts before October 1, 1978."

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b) (3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b) (3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b) (3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

[Editor's Note: Liability of \$50,000 in Section 311(f) (2) and Section 311(f) (3) was established by the Clean Water Act of 1977. Under SEC. 58(h) of the 1977 Act, liability is to be \$8,000,000 until June 1978.]

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or on-

shore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b) (3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b) (3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge, \$125 per gross ton of such barge, \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsec-

tion (b) (3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) The United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i) (1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b) (3) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Claims Court, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing clauses.

(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act, or the Deepwater Port Act of 1974.

(3) Any amount paid in accordance with a judgment of the United States Claims Court pursuant to this section shall be paid from the funds established pursuant to subsection (k).

[Sec. 311(i)(1) and (3) amended by PL 97-164]

(j) (1) Consistent with the National Contingency Plan required by subsection (c) (2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person sub-

ject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulations, shall be liable to a civil penalty of not more than \$5,000 for each such violation. This paragraph shall not apply to any owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of paragraph (3) (ii) of subsection (b) unless such owner, operator, or person in charge is otherwise subject to the jurisdiction of the United States. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance after notification of a violation, shall be considered by the President.

(k) (1) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury such sums as may be necessary to maintain such fund at a level of \$35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to or deposited in said fund shall remain available until expended.

[Sec. 311(k)(1) designated by PL 96-483]

(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than \$12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).

[Sec. 311(k)(2) added by PL 96-483]

[Editor's note: Section 304(b) and (c) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (PL 96-510) provides:

"(b) One-half of the unobligated balance remaining before the date of the enactment of this Act under subsection (k) of section 311 of the Federal Water Pollution Control Act and all sums appropriated under section 504(b) of the Federal Water Pollution Control Act shall be transferred to the Fund established under title II of this Act.

(c) In any case in which any provision of section 311 of the Federal Water Pollution Control Act is determined to be in conflict with any provisions of this Act, the provisions of this Act shall apply."

(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and

instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i) (1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o) (1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(p) (1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of, in the case of an inland oil barge \$125 per gross ton of such barge, or \$125,000; whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater, to meet the liability to the United States which

such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charts more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be subject to a fine of not more than \$10,000.

(5) The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States, as amended (4 U.S.C. 91), to any vessel subject to this subsection, which does not have evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(6) The Secretary of the Department in which the Coast Guard is operated may (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection, which upon request, does not produce evidence furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(q) The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f) (2) and (3) of this section of less than \$50,000,000, but not less than \$8,000,000.

(r) Nothing in this section shall be construed to impose or authorize the imposition of any limitation on liability under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974.

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MARINE SANITATION DEVICES

Sec. 312. (a) For the purpose of this section, the term—

(1) "new vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulation under this section;

(2) "existing vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

(3) "public vessel" means a vessel owned or bareboat-chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

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

(5) "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

(6) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes such term shall include graywater;

(7) "manufacture" means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

(8) "person" means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

(9) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(10) "commercial vessels" means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;

(11) "graywater" means galley, bath, and shower water.

(b) (1) As soon as possible, after the enactment of this section and subject to the provisions of section 101(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as "standards") which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet

facilities. Such standards and standards established under subsection (c) (1) (B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c) (1) (A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 304(d) of this Act. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b) (1) of this section and certifications under subsection (g) (2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

(f) (1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(2) If after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4) (A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

(g) (1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

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(3) For any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g) (1) of this section and subsections (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) Any person who violates subsection (g) (1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than \$5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than \$2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific

Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such action may be brought in the District Court for the District of the Canal Zone.

FEDERAL FACILITIES POLLUTION CONTROL

Sec. 313. (a) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility; or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants, and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. Nothing in this section shall be construed to prevent any department, agency, or instrumentality of the Federal Government, or any officer, agent, or employee thereof in the performance of his official duties, from reporting to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with 28 U.S.C. 1441 et seq. No officer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law, or imposed by a State or local court to enforce an order or the process of such court. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President

shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption. In addition to any such exemption of a particular effluent source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to such property, which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals.

(b) (1) The Administrator shall coordinate with the head of each department, agency, or instrumentality of the Federal Government having jurisdiction over any property or facility utilizing federally owned wastewater facilities to develop a program of cooperation for utilizing wastewater control systems utilizing those innovative treatment processes and techniques for which guidelines have been promulgated under section 304(d) (3). Such program shall include an inventory of property and facilities which could utilize such processes and techniques.

(2) Construction shall not be initiated for facilities for treatment of wastewater at any Federal property or facility after September 30, 1979, if alternative methods for wastewater treatment at such property or facility utilizing innovative treatment processes and techniques, including but not limited to methods utilizing recycle and reuse techniques and land treatment are not utilized, unless the life cycle cost of the alternative treatment works exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive the application of this paragraph in any case where the Administrator determines it to be in the public interest, or that compliance with this paragraph would interfere with the orderly compliance with conditions of a permit issued pursuant to section 402 of this Act.

CLEAN LAKES

Sec. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section. The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a) (1) of this section.

(c) (1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(2) There is authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1973; \$100,000,000 for the fiscal year 1974; \$150,000,000 for the fiscal year 1975, \$50,000,000 for fiscal year 1977, \$60,000,000 for fiscal year 1978, \$60,000,000 for fiscal year 1979, \$60,000,000 for fiscal year 1980, \$30,000,000 for fiscal year 1981, and \$30,000,000 for fiscal year 1982 for grants to States under this section which sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

NATIONAL STUDY COMMISSION

Sec. 315. (a) There is established a National Study Commission, which shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1983 in section 301(b) (2) of this Act.

(b) Such Commission shall be composed of fifteen members, including five members of the Senate, who are members of the Public Works committee, appointed by the President of the Senate, five members of the House, who are members of the Public Works committee, appointed by the Speaker of the House, and five members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(c) In the conduct of such study, the Commission is authorized to contract with the National Academy of Sciences and the National Academy of Engineering (acting through the National Research Council), the National Institute of Ecology, Brookings Institution, and other nongovernmental entities, for the investigation of matters within their competence.

(d) The heads of the departments, agencies and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(e) A report shall be submitted to the Congress of the results of such investigation and study, together with recommendations, not later than three years after the date of enactment of this title.

(f) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including

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per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(g) In addition to authority to appoint personnel subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commission shall have authority to enter into contracts with private or public organizations who shall furnish the Commission with such administrative and technical personnel as may be necessary to carry out the purpose of this section. Personnel furnished by such organizations under this subsection are not, and shall not be considered to be, Federal employees for any purposes, but in the performance of their duties shall be guided by the standards which apply to employees of the legislative branches under rules 41 and 43 of the Senate and House of Representatives, respectively.

(h) There is authorized to be appropriated, for use in carrying out this section, not to exceed \$17,250,000.

THERMAL DISCHARGES

Sec. 316. (a) With respect to any point source otherwise subject to the provisions of section 301 or section 306 of this Act, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose an effluent limitation under such sections for such plant, with respect to the thermal component of such discharge (taking into account the interaction of such thermal component with other pollutants), that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on that body of water.

(b) Any standard established pursuant to section 301 or section 306 of this Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) Notwithstanding any other provision of this Act, any point source of a discharge having a thermal component, the modification of which point source is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which, as modified, meets effluent limitations established under section 301, or, if more stringent, effluent limitations established under section 303 and which effluent limitations will assure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the water into which the dis-

charge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

FINANCING STUDY

Sec. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

(b) There is authorized to be appropriated for use in carrying out this section, not to exceed \$1,000,000.

AQUACULTURE

Sec. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision pursuant to section 402 of this Act.

(b) The Administrator shall by regulation establish any procedures and guidelines which the Administrator deems necessary to carry out this section. Such regulations shall require the application to such discharge of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title, as the Administrator determines necessary to carry out the objective of this Act.

(c) Each State desiring to administer its own permit program within its jurisdiction for discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project may do so if upon submission of such program the Administrator determines such program is adequate to carry out the objective of this Act.

TITLE IV—PERMITS AND LICENSES

CERTIFICATION

Sec. 401. (a) (1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such dis-

charge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301 (b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying

State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 303, 306, or 307 of this Act.

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 303, 306, or 307 of this Act.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 303, 306, or 307 of this Act.

(6) Except with respect to a permit issued under section 402 of this Act, in any case where actual construction of a facility has been lawfully commenced prior to

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April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM

Sec. 402. (a) (1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301 (a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304 (h) (2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (h) (2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall ap-

prove each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403; (B) are for fixed terms not exceeding five years; and (C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit; (ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts; (iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307 (b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source

were discharging pollutants; (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204 (b), 307, and 308.

(c) (1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304 (i) (2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304 (h) (2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(d) (1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b) (5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limita-

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tions and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, or request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines promulgated pursuant to subsection (h) (2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, and 402, of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l) The Administrator shall not require a permit under this section, for discharge composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

[Editor's note: SEC. 54(c) (2) of the Clean Water Act of 1977 says:

"Any State permit program approved under section 402 of the Federal Water Pollution Control Act before the date of enactment of the Clean Water Act of 1977, which requires modification to conform to the amendment made by paragraph (1) of this subsection, shall not be required to be modified before the end of the one year period which begins on the date of enactment of the Clean Water Act of 1977 unless in order to make the required modification a State must amend or enact a law in which case such modification shall not be required for such State before the end of the two year period which begins on such date of enactment."]

OCEAN DISCHARGE CRITERIA

Sec. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 402 if the Administrator determines it to be in the public interest.

(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

(c) (1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from

time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

(C) the effect of disposal of pollutants on esthetic, recreation, and economic values;

(D) the persistence and permanence of the effects of disposal of pollutants;

(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

PERMITS FOR DREDGED OR FILL MATERIAL

Sec. 404. (a) The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zones, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shell-

fish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

(d) The term "Secretary" as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

(e) (1) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b) (1) of this section, and (B) set forth the requirements and standards which shall apply to any activity authorized by such general permit.

(2) No general permit issued under this subsection shall be for a period of more than five years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.

(f) (1) Except as provided in paragraph (2) of this subsection, the discharge of dredge or fill material—

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics

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of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

(F) resulting from any activity with respect to which a State has an approved program under section 208(b) (4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under this section or section 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307).

(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

(g) (1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto), within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(3) Not later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

(h) (1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall

determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

(A) To issue permits which—

(i) apply and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under section (b) (1) of this section, and sections 307 and 403 of this Act;

(ii) are for fixed terms not exceeding five years; and

(iii) can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the permit;

(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 308 of this Act, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act.

(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

(D) To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.

(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable water would be substantially impaired thereby.

(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

(2) If, with respect to a State program submitted under subsection (g) (1) of this section, the Administrator determines that such State—

(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State, and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g) (1) of this section within one hundred twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2) (A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under section (h) (2) (A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b) (1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the program for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the

Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

(j) Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetieth day after the date of such receipt. If such State is so notified by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h) (1) (E), or (B) to the issuances of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b) (1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this Act.

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(k) In accordance with guidelines promulgated pursuant to subsection (h) (2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h) (2) (A) of this section for any category (including any class, type, or size within such category) of discharge within the State submitting such program.

(l) The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h) (2) (A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.

(m) Not later than the ninetieth day after the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

(n) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(o) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

(p) Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

(q) Not later than the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice of such application is published under subsection (a) of this section.

(r) The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection, is not pro-

hibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b) (1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for each construction.

(s) (1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(4) (A) Any person who willfully or negligently violates any condition or limitation in a permit issued by the Secretary under this section shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

(B) For the purposes of this paragraph, the term "person" shall mean, in addition to the definition con-

tained in section 502(5) of this Act, any responsible corporate officer, or any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed \$10,000 per day of such violation.

(1) Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

DISPOSAL OF SEWAGE SLUDGE

Sec. 405. (a) Notwithstanding any other provision of this Act or of any other law, in the case where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 212 of this Act (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under section 402 of this Act.

(b) The Administrator shall issue regulations governing the issuance of permits for the disposal of sewage sludge subject to subsection (a) of this section and section 402 of this Act. Such regulations shall require the application to such disposal of each criterion, factor, procedure, and requirement applicable to a permit issued under section 402 of this title.

(c) Each State desiring to administer its own permit program for disposal of sewage sludge subject to subsection (a) of this section within its jurisdiction may do so in accordance with section 402 of this Act.

(d) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this subsection and from time to time thereafter, regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. Such regulations shall—

- (1) identify uses for sludge, including disposal;
- (2) specify factors to be taken into account in determining the measures and practices applicable to each such use or disposal (including publication of information on costs);
- (3) identify concentrations of pollutants which interfere with each such use or disposal.

The Administrator is authorized to revise any regulation issued under this subsection.

(e) The determination of the manner of disposal or use of sludge is a local determination except that it shall be unlawful for the owner or operator of any publicly owned treatment works to dispose of sludge from such works for any use for which guidelines have been established pursuant to subsection (d) of this section, except in accordance with such guidelines.

TITLE V—GENERAL PROVISIONS

ADMINISTRATION

Sec. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

(e) (1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the

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Senate shall be notified of the award by the Administrator, and the awarding of such recognition shall be published in the Federal Register.

(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

GENERAL DEFINITIONS

Sec. 502. Except as otherwise specifically provided, when used in this Act:

(1) The term "State water pollution control agency" means the State agency designated by the Governor, having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

(5) The term "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels" within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

(7) The term "navigable waters" means the waters of the United States, including the territorial seas.

(8) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct con-

tact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(11) The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term "discharge of a pollutant" and the term "discharge of pollutants" each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term "toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(15) The term "biological monitoring" shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term "discharge" when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term "industrial user" means those industries identified in the Standard Industrial Classification

Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing" and such other classes of significant waste products as, by regulation, the Administrator deems appropriate.

(19) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

WATER POLLUTION CONTROL ADVISORY BOARD

Sec. 503. (a) (1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

(2) (A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the

Administrator, but not exceeding \$100 per diem, including travel-time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

EMERGENCY POWERS

Sec. 504. (a) Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

(b) [504 (b) repealed by P.L. 96-510, Sec. 304(a)]

CITIZEN SUITS

Sec. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard of limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of

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the parties; to enforce such an effluent standard or limitation, on such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309 (d) of this Act.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order; or

(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States, or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 306 and 307 (a) of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) (1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

(f) For purposes of this section, the term "effluent standard or limitation under this Act" means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (3) prohibition, effluent standard or pretreatment standards under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

(g) For the purposes of this section the term "citizen" means a person or persons having an interest which is or may be adversely affected.

(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

APPEARANCE

Sec. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

EMPLOYEE PROTECTION

Sec. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise dis-

criminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his bindings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, or any other prohibition or limitation established under this Act.

(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation

or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearing require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act.

FEDERAL PROCUREMENT

Sec. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309 (c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal

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agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

ADMINISTRATIVE PROCEDURE AND

JUDICIAL REVIEW

Sec. 509. (a) (1) For the purposes of obtaining information under section 305 of this Act, or carrying out section 507 (e) of this Act, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpoenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under sections 304 (b) and (c) of this Act. Any papers, books,

documents, or other information or part thereof, obtained by reason of such a subpoena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b) (1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b) (1) (C), (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under sections 301, 302, or 306, and (F) in issuing or denying any permit under section 402, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such ninetieth day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

STATE AUTHORITY

Sec. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or

other limitation; effluent standard; prohibition; pretreatment standard; or standard of performance which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

OTHER AFFECTED AUTHORITY

Sec. 511 (a) This act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441-451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

(c) (1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation,

and (2) shall not consider any such agreement in the approval of any such priority ranking.

SEPARABILITY

Sec. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

LABOR STANDARDS

Sec. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

PUBLIC HEALTH AGENCY COORDINATION

Sec. 514. The permitting agency under section 402 shall assist the applicant for a permit under such section in coordinating the requirements of this Act with those of the appropriate public health agencies.

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

Sec. 515. (a) (1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

(b) (1) No later than one hundred and eight days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304(b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The

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Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

(c) (1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code.

(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

REPORTS TO CONGRESS

Sec. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, area-wide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems

associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

(b) (1) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (A) a detailed estimate of the cost of carrying out the provisions of this Act; (B) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (C) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (D) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

[Editor's note: Section 25 of PL 97-117 provides:

"NEEDS SURVEY

Sec. 25. The Administrator of the Environmental Protection Agency shall submit to the Congress, not later than December 31, 1982, a report containing the detailed estimates, comprehensive study, and comprehensive analysis required by section 516(b) of the Federal Water Pollution Control Act, including an estimate of the total cost and the amount of Federal funds necessary for the construction of needed publicly owned treatment facilities. Such report shall be prepared in the same manner as is required by such section and shall reflect the changes made in the Federal water pollution control program by this Act and the amendments made by this Act. In preparing this report, the Administrator shall give emphasis to the effects of the amendment made by section 2(a) of this Act in addressing water quality needs adequately and appropriately.]

(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA-1, O.M.B.

No. 158-R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g) (2) (A) of this Act and water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.

(c) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of combined sewer overflows in municipal treatment works operations. The report shall include (1) the status of any projects funded under this Act to address combined sewer overflows, (2) a listing by State of combined sewer overflow needs identified in the 1977 State priority listings, (3) an estimate for each applicable municipality of the number of years necessary, assuming an annual authorization and appropriation for the construction grants program of \$5,000,000,000 to correct combined sewer overflow problems, (4) an analysis using representative municipalities faced with major combined sewer overflow needs, of the annual discharges of pollutants from overflows in comparison to treated effluent discharges, (5) an analysis of the technological alternatives available to municipalities to correct major combined sewer overflow problems, and (6) any recommendations of the Administrator for legislation to address the problem of combined sewer overflows, including whether a separate authorization and grant program should be established by the Congress to address combined sewer overflows.

(d) The Administrator shall submit to the Congress by October 1, 1978, a report on the status of the use of municipal secondary effluent and sludge for agricultural and other purposes that utilize the nutrient value of treated wastewater effluent. The report shall include (1) a summary of results of research and development programs, grants, and contracts carried out by the Environmental Protection Agency pursuant to sections 104 and 105 of this Act, regarding alternatives to disposal, landfill, or incineration of secondary effluent of sludge, (2) an estimate of the amount of sludge generated by public treatment works and its disposition, including an estimate of annual energy costs to incinerate sludge, (3) an analysis of current technologies for the utilization, reprocessing, and other uses of sludge to utilize the nutrient value of sludge, (4) legal, institutional, public health, economic, and other impediments to the greater utilization of treated sludge, and (5) any recommendations of the Administrator for legislation to encourage

or require the expanded utilization of sludge for agricultural and other purposes. In carrying out this subsection, the Administrator shall consult with, and use the services of the Tennessee Valley Authority and other departments, agencies and instrumentalities of the United States, to the extent it is appropriate to do so.

(e) The Administrator, in cooperation with the States, including water pollution control agencies, and other water pollution control planning agencies, and water supply and water resources agencies of the States and the United States shall submit to Congress, within two years of the date of enactment of this section, a report with recommendations for legislation on a program to require coordination between water supply and wastewater control plans as a condition to grants for construction of treatment works under this Act. No such report shall be submitted except after opportunity for public hearings on such proposed report.

GENERAL AUTHORIZATION

Sec. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, \$250,000,000 for the fiscal year ending June 30, 1973, \$300,000,000 for the fiscal year ending June 30, 1974, \$350,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending September 30, 1977, \$150,000,000 for the fiscal year ending September 30, 1978, \$150,000,000 for the fiscal year ending September 30, 1979, \$150,000,000 for the fiscal year ending September 30, 1980, \$150,000,000 for the fiscal year ending September 30, 1981 and \$161,000,000 for the fiscal year ending September 30, 1982.

[Sec. 517 amended by PL 96-483]

SHORT TITLE

Sec. 518 This Act may be cited as the "Federal Water Pollution Control Act" (commonly referred to as the Clean Water Act).

AUTHORIZATIONS FOR FISCAL YEAR 1972

Sec. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed \$11,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

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(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed \$350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

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

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

SAVINGS PROVISION

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

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

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

OVERSIGHT STUDY

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

INTERNATIONAL TRADE STUDY

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

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

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

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

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

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

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

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

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

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study

and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

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

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITY

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

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

"(2) Any such loan—

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

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency, or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

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

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

(b) Section 4(c) (1) (A) of the Small Business Act is

amended by striking out "and 7(c) (2)" and inserting in lieu thereof "7(c) (2), and 7(g)".

ENVIRONMENTAL COURT

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

NATIONAL POLICIES AND GOALS STUDY

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

EFFICIENCY STUDY

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

ENVIRONMENTAL FINANCING

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

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

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

(d) (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Sec-

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retary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

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

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

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

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

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

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

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed \$100,000,000, which shall be available for the purposes of this subsection.

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

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

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

(i) The Authority shall have power—

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

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

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

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

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

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

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

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

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

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

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

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

(m) The Authority shall, as soon as practicable after

the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

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

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

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

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

SEX DISCRIMINATION

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

[Editor's Note: The following sections do not amend the Federal Water Pollution Control Act, but they are new parts of the Clean Water Act of 1977, and the section numbers refer to that Act.]

EXISTING GUIDELINES

Sec. 73. Within 90 days after the date of enactment of this Act, the Administrator shall review every effluent guideline promulgated prior to the date of enactment of this Act which is final or interim final (other than those applicable to industrial categories listed in table 2 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives) and which applies to those pollutants identified pursuant to section 304(a) (4) of the Federal Water Pollution Control Act. The Administrator shall review every guideline applicable to industrial categories listed in such table 2 on or before July 1, 1980. Upon completion of each such review the Admin-

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

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

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

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

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

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

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

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

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

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

(m) The Authority shall, as soon as practicable after

the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

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

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EXISTING GUIDELINES

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istrator is authorized to make such adjustments in any such guidelines as may be necessary to carry out section 304(b) (4) of such Act. The Administrator shall publish the results of each such review, including, with respect to each such guideline, the determination to adjust or not to adjust such guideline. Any such determination by the Administrator shall be final except that if, on judicial review in accordance with section 509 of such Act, it is determined that the Administrator either did not comply with the requirements of this section or the determination of the Administrator was based on arbitrary and capricious action in applying section 304(b) (4) of such Act to such guideline, the Administrator shall make a further review and redetermination of any such guideline.

SEAFOOD PROCESSING STUDY

Sec. 74. The Administrator of the Environmental Protection Agency shall conduct a study to examine the geographical, hydrological, and biological characteristics of marine waters to determine the effects of seafood processes which dispose of untreated natural wastes into such waters. In addition, such study shall examine technologies which may be used in such processes to facilitate the use of the nutrients in these wastes or to reduce the discharge of such wastes into the marine environment. The results of such study shall be submitted to Congress not later than January 1, 1979.

COST RECOVERY STUDY

Sec. 75. (a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of industrial wastes to the extent attributable to the Federal share of the cost of construction. Such study shall include, but not be limited to, an analysis of the impact of such a system of payment upon rural communities and on industries in economically distressed areas or areas of high unemployment. No later than the last day of the twelfth month which begins after the date of enactment of this section, the Administrator shall submit a report to the Congress setting forth the results of such study.

(b) [Sec. 75(b) repealed by PL 96-483]

(c) or purposes of this section, the terms "industrial user" and "treatment works" have the same meaning given such terms in the Federal Water Pollution Control Act.

(d) [Sec. 75(d) repealed by PL 96-483]

LAKE CHELAN DELEGATION

Sec. 76. The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of

those functions vested in such Secretary by section 404 of the Federal Water Pollution Control Act and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to Lake Chelan, Washington, if the Secretary determines (1) that such State has the authority, responsibility, and capability to carry out such functions, and (2) that such delegation is in the public interest. Such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such delegation.

SECONDARY TREATMENT FACILITY SITE

Sec. 77. The Administrator of the Environmental Protection Agency shall reimburse the city of Boston, Massachusetts, an amount equal to 75 per centum, but not to exceed \$15,000,000, of the cost of constructing a modern correctional detention facility on a site in such city, on condition that such city convey to the Commonwealth of Massachusetts all of its right, title, and interest in and to that real property owned by such city on Deer Island which is the site of the existing correctional detention facility for use by such Commonwealth as the site for a publicly owned treatment works providing secondary treatment. There is authorized to be appropriated \$15,000,000 to carry out the purposes of this section.

TOTAL TREATMENT SYSTEM FUNDING

Sec. 78. Notwithstanding any other provision of law, in any case where the Administrator of the Environmental Protection Agency finds that the total of all grants made under section 201 of the Federal Water Pollution Control Act for the same treatment works exceeds the actual construction costs for such treatment works (as defined in that Act) such excess amount shall be a grant of the Federal share (as defined in that Act) of the cost of construction of a sewage collection system if—

(1) such sewage collection system was constructed as part of the same total treatment system as the treatment works for which such section 201 grants were approved, and

(2) an application for assistance for the construction of such sewage collection system was filed in accordance with section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102) before all such section 201 grants were made and such section 702 grant could not be approved due to lack of funding under such section 702.

The total of all grants for sewage collection systems made under this section shall not exceed \$2,800,000.

[Editor's note: Section 26 of PL 97-117, the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," did not amend this Act but made certain recommendations regarding consent agreements reached prior to the amendments made to this Act by PL 97-117. The text of that section follows:

"JUDICIAL NOTICE

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