95TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 95-830

DECEMBER 6, 1977.—Ordered to be printed

Mr. ROBERTS, from the committee on conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3199]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Clean Water Act of 1977".

SHORT TITLE

SEC. 2. Section 518 of the Federal Water Pollution Control Act is amended to read as follows:

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act' (commonly referred to as the Clean Water Act).".

AUTHORIZATION APPROVAL

SEC. 3. Funds appropriated before the date of enactment of this Act for expenditure during the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977, under authority of the Federal Water Pollution Control Act, are hereby authorized for those purposes for which appropriated.

AUTHORIZATION EXTENSION

SEC. 4. (a) Section 104(u)(2) of the Federal Water Pollution Control Act is amended by striking out "1975" and inserting in lieu thereof

"1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000, for fiscal year 1979, and $3,000 for fiscal year 1980,".

(b) Section 104(u)(3) of the Federal Water Pollution Control Act is amended by striking out "1975" and inserting in lieu thereof "1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,500,000 for fiscal year 1980,".

(c) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by striking out "and the fiscal year ending June 30, 1975;" and inserting in lieu thereof "and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980;".

(d) Section 112(c) of the Federal Water Pollution Control Act is amended by inserting "$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, and $7,000,000 for the fiscal year ending September 30, 1980," immediately after "June 30, 1975,".

(e) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and not to exceed $150,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "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.".

(f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year 1975" and inserting in lieu thereof "$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, and $60,000,000 for fiscal year 1980".

(g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $350,000,000 for the fiscal year ending June 30, 1975." and inserting in lieu thereof "$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, and $150,000,000 for the fiscal year ending September 30, 1980.".

STATE JURISDICTION

SEC. 5. (a) Section 101 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

(b) Section 102 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Plan-

ning 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.".

ESTUARINE STUDY

SEC. 6. Section 104(n)(3) of the Federal Water Pollution Control Act is amended by striking out "any three year period" and inserting in lieu thereof "any six-year period".

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

SEC. 7. Section 104(q) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:

"(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.".

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

SEC. 8. Section 105 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

ASSISTANCE FOR RECYCLE, REUSE, AND LAND TREATMENT PROJECTS

SEC. 9. Section 105 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

TRAINING GRANTS

SEC. 10 (a) Section 109(b)(3) of the Federal Water Pollution Control Act is amended by striking "$250,000" and inserting in lieu thereof "$500,000".

(b) Section 109(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(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.".

(c) Section 109(b)(1) of the Federal Water Pollution Control Act is amended by inserting before the period the following: "and for the costs of other State treatment works operator training programs, including mobile training units, classroom rental, specialized instructors, and instructional material".

(d) Section 109(b)(1) of the Federal Water Pollution Control Act is amended by striking out "construction of a treatment works" and inserting in lieu thereof: "construction of treatment works".

(e) Section 109(b)(2) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "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.".

RURAL VILLAGE STUDY

SEC. 11. (a) Section 113 of the Federal Water Pollution Control Act is amended by adding new subsections (e), (f), and (g) as follows:

"(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(q) 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.".

(b) Subsection (d) of section 113 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "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."

GRANT APPLICATION REVIEW

SEC. 12. Section 201(g) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(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.".

RECREATION AND OPEN SPACE

SEC. 13. Section 201(g) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(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.".

INDIVIDUAL SYSTEMS

SEC. 14. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.

In the case of any treatment works assisted under this subsection serving commercial users, any such agreement under paragraph (2) shall make provision for the payment to the United States by the commercial users of the treatment works of that portion of the cost of construction of such works which is applicable to the treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.".

ENERGY REQUIREMENTS

SEC. 15. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

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

COST EFFECTIVENESS

SEC. 16. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

FEDERAL GRANT SHARE

SEC. 17. Subsection (a) of section 202 of the Federal Water Pollution Control Act is amended by inserting "(1)" immediately after "(a)" and by inserting at the end thereof the following new paragraphs:

"(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. 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.*

"(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 in the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Such term does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.*".

COMBINED GRANTS

SEC. 18. Section 203(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentences: "In the case of a treatment works that has an estimated total cost of $2,000,000 or less (as determined by the Administrator), and the population of the 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. If any State is found by the Administrator to have unusually high costs of construction, the Administrator may authorize a single grant under the preceding sentence where the estimated total cost of the treatment works does not exceed $3,000,000.".

CONTRACT ENFORCEMENT

SEC. 19. Section 203 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.*".

PRIORITY

Sec. 20. Section 204(a)(3) of the Federal Water Pollution Control Act is amended by inserting immediately after the word "Act" the following: ", 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.".

RESERVE CAPACITY

Sec. 21. Section 204(a)(5) of the Federal Water Pollution Control Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and the following: "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.".

USER CHARGES

Sec. 22. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended—

(1) by striking out in clause (A) "proportionate share" and inserting in lieu thereof "proportionate share (except as otherwise provided in this paragraph)"; and

(2) by adding at the end of such paragraph (1) the following: "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 wastes, 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.".

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(5) 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 the necessary funds will be available for the proper operation and 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 cost of the waste treatment services.".

WATER CONSERVATION

SEC. 23. Section 204(b)(3) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "Notwithstanding paragraph (1)(B) of this subsection, subject to the approval of the Administrator, a grantee that received a grant prior to the enactment of the Clean Water Act of 1977 may reduce the amounts required to be paid to such grantee by any industrial user of waste treatment services under such paragraph, if such grantee requires such industrial user to adopt other means of reducing the demand for waste treatment services through reduction in the total flow of sewage or unnecessary water consumption, in proportion to such reduction as determined in accordance with regulations promulgated by the Administrator.".

INDUSTRIAL COST RECOVERY

SEC. 24. (a) Section 204(b)(3)(B) of the Federal Water Pollution Control Act is amended by inserting after "necessary for" the following: "the administrative costs associated with the requirement of paragraph (1)(B) of this subsection and".

(b) Section 204(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(6) The Administrator is authorized to exempt from the requirement of paragraph (1)(B) of this subsection any industrial user with a flow into such treatment works per day equivalent to twenty-five thousand gallons or less per day of sanitary waste, if such industrial user does not introduce into such treatment works any pollutant which interferes or is incompatible with, or contaminates or reduces the utility of the sludge of such works.".

(c) Section 204(b)(1)(B) of the Federal Water Pollution Control Act is amended by inserting before the semicolon the following: "(which such portion, in the discretion of the applicant, may be recovered from industrial users of the total waste treatment system as distinguished from the treatment works for which the grant is made)".

ALLOTMENT

SEC. 25. (a) The first sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972, and before September 30, 1977,".

(b) Such section 205 is further amended by adding at the end thereof the following new subsections:

"(c) 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.

"(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 reallotted 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 reallotted 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 reallotted. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(e) For the fiscal years 1978, 1979, 1980, and 1981, 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 in 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, and 1981. 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.

"(*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.*".

STATE MANAGEMENT ASSISTANCE

Sec. 26. (*a*) *Section 205 of the Federal Water Pollution Control Act is amended by adding after new subsection* (*f*) *the following new subsection:*

"(*g*) (*1*) *The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the allotment made to each State under this section on or after October 1, 1977, 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.*

"(*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.*".

(*b*) *Section 101*(*b*) *of Federal Water Pollution Control Act is amended by inserting immediately after the first sentence the following new sentence: "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.*".

SET ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

Sec. 27. Section 205 of Federal Water Pollution Control Act is amended by adding after new subsection (*g*) *a new subsection as follows:*

"(*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.*".

FUNDING

SEC. 28. Section 205 of the Federal Water Pollution Control Act is further amended by adding at the end thereof the following new subsection:

"(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, and September 30, 1981, 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 expenditures 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 from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act.".

REIMBURSEMENT AND ADVANCED CONSTRUCTION

SEC. 29. (a) Subsection (a) of section 206 of the Federal Water Pollution Control Act is amended by striking out "July 1, 1972," and inserting in lieu thereof "July 1, 1973,".

(b) 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.

CONSTRUCTION GRANT AUTHORIZATIONS

SEC. 30. Section 207 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "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, September 30, 1981, and September 30, 1982, not to exceed $5,000,000,000 per fiscal year.".

AREAWIDE PLANNING

SEC. 31. (a) Section 208(b)(1) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(b)(1)" and by adding at the end thereof the following new subparagraph:

"(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.".

(b) Section 208(f)(2) of the Federal Water Pollution Control Act is amended to read as follows:

"(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) 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.".

(c) The second sentence of section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to such amounts as are provided in appropriation Acts.".

AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 32. Section 208(b)(2)(A) of the Federal Water Pollution Control Act is amended by inserting before the semicolon a comma and the following: "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".

IRRIGATION RETURN FLOWS

SEC. 33. (a) Section 208(b)(2)(F) of the Federal Water Pollution Control Act is amended by adding after "sources of pollution, including" the following: "return flows from irrigated agriculture, and their cumulative effects,".

(b) Section 502(14) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "This term does not include return flows from irrigated agriculture.".

(c) Section 402 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(l) The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.".

STATE BEST MANAGEMENT PRACTICES PROGRAM

SEC. 34. (a) Paragraph (4) of subsection (b) of section 208 of the Federal Water Pollution Control Act is amended—

(1) by inserting "(A)" immediately after "(4)";

(2) by striking out "to the Administrator for application to all regions within such State." and inserting in lieu thereof "to

the Administrator for approval for application to a class or category of activity throughout such State."; and

(3) by inserting at the end thereof the following new subparagraphs:

"(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.".

(b) Section 208 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

AGRICULTURAL COST SHARING

SEC. 35. Section 208 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

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

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

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

"*(5) The Secretary 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 land owners 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 Publice Law 83–566.*

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

GRANT ELIGIBLE CATEGORIES

Sec. 36. Section 211 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "Sec. 211." and by adding at the end thereof the following new subsections:

"(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, 1982, for treatment works for control of pollutant discharges from separate storm sewer systems.*".

WASTEWATER STORAGE

Sec. 37. Section 212(2)(A) of the Federal Water Pollution Control Act is amended by inserting "(including land used for the storage of treated wastewater in land treatment systems prior to land application)" after the word "process".

PUBLIC INFORMATION PROGRAM

Sec. 38. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"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.*".

BUY AMERICAN

SEC. 39. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"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, materials, 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. 40. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"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.".

COST-EFFECTIVENESS GUIDELINES

SEC. 41. Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"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."

TIME LIMITATIONS

SEC. 42. (a) Paragraph (2) of subsection (b) of section 301 of the Federal Water Pollution Control Act is amended—

(1) in subparagraph (A), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 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 limitations 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 accordance with regulations issued by the Administrator pursuant to section 304(b)(4) of this Act; and

"(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.".

(b) Paragraph (2)(A) of section 301(b) of the Federal Water Pollution Control Act is amended by striking out "not later than July 1, 1983," and inserting in lieu thereof "for pollutants identified in subparagraphs (C), (D), and (F) of this paragraph,".

WAIVER FOR CERTAIN POLLUTANTS

SEC. 43. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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 iden-

tified 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 or 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.".

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

SEC. 44. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new 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 in an existing discharge from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

"(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(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 the 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) any funds available to the owner of such treatment works under title II of this Act will be used to achieve the degree of effluent reduction required by section 201(b) and (g)(2)(A) or to carry out the requirements of this subsection.*

For the purposes of this subsection the phrase 'the discharge of any pollutant into marine waters' refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act.".

MUNICIPAL TIME EXTENSIONS

SEC. 45. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"*(i)(1) 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, 1983, and shall contain such other terms and conditions, including those necessary to carry out subsections (b) through (g) of section 201 of this Act, section 307 of this Act, and such interim effluent limitations 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, 1983; and no such time modification shall be granted unless (i) the publicly owned treatment works will be in operation and available to the point source before July 1, 1983, and will meet the requirements of subsections (b)(1) (B) and (C) of this section after receiving the discharge from that point source; and (ii) the point source and the publicly owned treatment works have entered into an enforceable contract requiring the point source to discharge into the publicly owned treatment works, the owner or operator of such point source to pay the costs required under section 204 of this Act, and the publicly owned treatment works to accept the discharge from the point source; and (iii) the permit for such point source requires that point source to meet all requirements under section 307 (a) and (b) during the period of such time modification.*".

PROCEDURE FOR MODIFICATIONS

SEC. 46. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(*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 270 days after the date of enactment of the Clean Water Act of 1977;*

"(*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.*".

INNOVATIVE TECHNOLOGY

Sec. 47. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(*k*) *In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection* (*b*) (*2*) (*A*) *of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator* (*or the State with an approved program under section 402, 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.*".

INFORMATION AND GUIDELINES

Sec. 48. (*a*) *Section 304*(*a*) *of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraphs:*

"(*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 pollutants, 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 or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.*".

(b) Section 304(b) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (2)(B), by striking out "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (3), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"*(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.".

IDENTIFICATION AND EVALUATION GUIDELINES

SEC. 49. Subsection (d) of section 304 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(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.".

BEST MANAGEMENT PRACTICES FOR INDUSTRY

SEC. 50. Section 304 of the Federal Water Pollution Control Act is amended by inserting immediately after subsection (d) the following new subsection and by redesignating succeeding subsections, including references thereto, accordingly:

"(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.".

INTERAGENCY AGREEMENTS

SEC. 51. Section 304(k) of the Federal Water Pollution Control Act as redesignated by this Act is amended to read as follows:

"(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.".

STATE REPORTS

SEC. 52. Subsection (b) of section 305 of the Federal Water Pollution Control Act is amended—

(1) by striking out "January 1, 1975, and shall bring up to date each year thereafter," in paragraph (1) and inserting in lieu thereof "April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter,"; and

(2) by striking out "annually" in paragraph (2) and inserting in lieu thereof the following: "October 1, 1976, and biennially".

TOXIC POLLUTANTS

SEC. 53. (a) Paragraphs (1), (2), and (3) of section 307(a) of the Federal Water Pollution Control Act are amended to read as follows:

"(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 to 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.

"(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 sections 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 standard (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.".

(b) Paragraph (6) of section 307(a) of the Federal Water Pollution Control Act is amended to read as follows:

"(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.".

(c) Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

PRETREATMENT

Sec. 54. (a) Section 307(b)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment work, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate works, the treatment by such works removes all or any part of 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.".

(b) Section 309 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(f) Whenever, on the basis of any 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.".

(c)(1) Section 402(b)(8) of the Federal Water Pollution Control Act is amended by inserting after "includes conditions to require" the following: "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".

(2) 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.

(d) Section 405 of the Federal Water Pollution Control Act is amended (1) by striking out in subsection (b) thereof "subject to this section" and inserting in lieu thereof "subject to subsection (a) of this section", (2) by striking out in subsection (c) thereof "sewage sludge" and inserting in lieu thereof "sewage sludge subject to subsection (a) of this section", and (3) by adding at the end thereof the following new subsections:

"(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.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 55. (a) Paragraph (1) of subsection (a) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(b) Paragraph (3) of subsection (a) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

(c) Subsection (d) of section 309 of the Federal Water Pollution Control Act is amended by striking "or 308" in the first sentence thereof and inserting in lieu thereof "308, 318, or 405".

1977 DEADLINES

SEC. 56. (a) The third sentence of section 309(a)(2) of the Federal Water Pollution Control Act is amended by striking out "the Administrator shall" and by inserting in lieu thereof the following: "except where an extension has been granted under paragraph (5)(B) of this subsection, the Administrator shall".

(b) Section 309(a)(4) of the Federal Water Pollution Control Act is amended by striking out the second sentence thereof.

(c) Section 309(a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraphs:

"(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.*".

MITIGATION COSTS

SEC. 57. Subsection (b) of section 311 of the Federal Water Pollution Control Act is amended by adding a new clause (v) to paragraph (2)(B) as follows:

"*(v) In addition to establishing a penalty for the discharge of a hazardous substance determined not to be removable pursuant to clauses (ii) through (iv) of this subparagraph, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.*".

OILSPILL LIABILITY

SEC. 58. (a)(1) Section 311(b)(1) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "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 Fishery Conservation and Management Act of 1976).".

(2) Section 311(b)(2)(A) of the Federal Water Pollution Control Act is amended by inserting after "the contiguous zone" the following: "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 Fishery Conservation and Management Act of 1976)".

(3) Section 311(b)(3) of the Federal Water Pollution Control Act is amended by inserting "(i)" immediately after "The discharge of oil or hazardous substances" and by inserting after the phrase "into or upon the waters of the contiguous zone" a comma and the following: "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 Fishery Conservation and Management Act of 1976),".

(4) Section 311(b)(3)(A) of the Federal Water Pollution Control Act is amended by inserting "or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" immediately after "waters of the contiguous zone", and by striking out "article IV of".

(5) Section 311(b)(4) of the Federal Water Pollution Control Act is amended by striking all after "beaches" and inserting a period.

(6) Section 311(b)(5) of the Federal Water Pollution Control Act is amended by inserting after "Any such person" in the second sentence "(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, or (C) in charge of an onshore facility or an offshore facilty,".

(7) The first sentence of section 311(b)(6) of the Federal Water Pollution Control Act is amended by striking out "Any owner or operator of any vessel, onshore facility," and inserting in lieu thereof "Any owner, operator, or person in charge of any onshore facility".

(8) Section 311(b)(6) of the Federal Water Pollution Control Act is amended by inserting immediately after the first sentence thereof the following: "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, 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.".

(b) Section 311(c)(1) of the Federal Water Pollution Control Act is amended by inserting after "discharged," the following: "or there is a substantial threat of such discharge,".

(c)(1) Section 311(c)(1) of the Federal Water Pollution Control Act is further amended by inserting after "contiguous zone," the fol-

lowing: "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 Fishery Conservation and Management Act of 1976)".

(2) The last sentence of section 311(d) of the Federal Water Pollution Control Act is amended by inserting after "under this subsection" the following: "or under the Intervention on the High Seas Act (or the convention defined in section 2(3) thereof)".

(3) Section 311(j)(2) of the Federal Water Pollution Control Act is amended by inserting immediately after the first sentence the following: "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.".

(d)(1) Section 311(a) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraphs:

> *"(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.".*

(2) Section 311(f)(1) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton of such vessel or $14,000,000, whichever is lesser," and inserting in lieu thereof the following: ", 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,".

(3) Section 311(g) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton of such vessel or $14,000,000, whichever is the lesser." and inserting in lieu thereof the following: ", 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.".

(4) Section 311(p)(1) of the Federal Water Pollution Control Act is amended by striking out "$100 per gross ton, or $14,000,000 whichever is the lesser," and inserting in lieu thereof the following: ", 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,".

(5) Section 311(f)(2) of the Federal Water Pollution Control Act is amended by striking out "$8,000,000" and inserting in lieu thereof "$50,000,000".

(6) Section 311 (f) (3) of the Federal Water Pollution Control Act is amended by striking out "$8,000,000" and inserting in lieu thereof "$50,000,000".

(e) Section 311(c) (2) (D) of the Federal Water Pollution Control Act is amended by striking out "to the appropriate Federal agency;" and inserting in lieu thereof "and imminent threats of such discharges to the appropriate State and Federal agencies;".

(f) Section 311(g) of the Federal Water Pollution Control Act is amended by inserting after "(g)" the following: "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.".

(g) Section 311(f) of the Federal Water Pollution Control Act is amended by adding the following new paragraphs:

"(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or 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.".

(h) The amendments made by paragraphs (5) and (6) of subsection (d) of this section shall take effect 180 days after the date of enactment of the Clean Water Act of 1977.

(i) Section 311 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(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.".

(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 for such increased amounts before October 1, 1978 under section 311(p) of the Federal Water Pollution Control Act.

(k) Section 311(a) (11) of the Federal Water Pollution Control Act is amended by inserting immediately after "United States" a

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comma and the following: "and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters,".

(l) The first sentence of section 311(k) of the Federal Water Pollution Control Act is amended by striking out "not to exceed" and inserting in lieu thereof the following: "such sums as may be necessary to maintain such fund at a level of".

(m) Section 311(i)(2) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "or the Deepwater Port Act of 1974.".

MARINE SANITATION DEVICES

SEC. 59. (a) Section 312(a)(6) of the Federal Water Pollution Control Act is amended by adding before the semicolon at the end thereof the following: "except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater".

(b) Section 312(a) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"(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.".

"(c) The next to the last sentence of section 312(b)(1) of the Federal Water Pollution Control Act is amended by inserting immediately after "Such standards" the following: "and standards established under subsection (c)(1)(B) of this section". The last sentence of such section 312(b)(1) is amended by inserting immediately after "subsection" the following: "and subsection (c) of this section".

(d) Section 312(c)(1) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(1)" and by adding at the end thereof a new subparagraph (B) as follows:

"(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.".

(e) Section 312(f)(4) of the Federal Water Pollution Control Act is amended by inserting "(A)" after "(4)" and by adding at the end thereof a new subparagraph (B) as follows:

"(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.".

FEDERAL FACILITIES

SEC. 60. Section 313 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "SEC. 313." and by adding at the end thereof the following new subsection:

"(*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.*".

FEDERAL FACILITY COMPLIANCE

Sec. 61. (a) Subsection (a) of section 313 of the Federal Water Pollution Control Act is amended (1) by striking in the first sentence thereof the words "shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges." and inserting in lieu thereof a comma and the words "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 removing to the appropriate Federal district court any proceeding to which the department, agency, or instrumentality or officer, agent, or employee there of 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."; and (2) by adding at the end of such subsection the following: "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) Section 401(a) of the Federal Water Pollution Control Act is amended by striking paragraph (6) and renumbering the succeeding paragraph accordingly.

CLEAN LAKES

SEC. 62. (a) Section 314(b) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.".

(b) The first sentence of section 304(j) of the Federal Water Pollution Control Act as redesignated by this Act, is amended to read as follows: "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.".

AQUACULTURE

SEC. 63. Section 318 of the Federal Water Pollution Control Act is amended to read as follows:

"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.".

COMPLIANCE WITH STATE REQUIREMENTS

SEC. 64. Section 401 of the Federal Water Pollution Control Act is amended by inserting "303," after "302," in the phrase "sections 301, 302, 306, and 307 of this Act", and in the phrase "section 301, 302, 306, or 307 of this Act", each time these phrases appear.

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

SEC. 65. (a) Section 402(d) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(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, 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 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.".

(b) Section 402(d)(2) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentence: "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 limitations and conditions which such permit would include if it were issued by the Administrator.".

ENFORCEMENT OF MUNICIPAL PERMITS

SEC. 66. Section 402(h) of the Federal Water Pollution Control Act is amended by striking out the comma after "is approved" and inserting the following: "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,".

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 67. (a)(1) Subsection (a) of section 404 of the Federal Water Pollution Control Act is amended by striking out "The Secretary of the Army, acting through the Chief of Engineers," and inserting in lieu thereof "The Secretary" and by inserting at the end thereof the following new sentence: "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.".

(2) Subsections (b) and (c) of such section 404 are amended by striking out "the Secretary of the Army" each place it appears and inserting in lieu thereof in each such place "the Secretary."

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(*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 dredged 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 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 subsection (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 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.*

"(*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 waters 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 subsections (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 pending 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 enforecement 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 issuance 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 States 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.

"(k) In accordance with guidelines promulgated pursuant to subsection (i)(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 for 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 prohibited 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 such 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 person 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 contained in section 502(5) of this Act, any responsible corporate officer.*

"(5) *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.*

"(t) *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.".*

(c)(1) *Section 308(a)(4) of the Federal Water Pollution Control Act is amended by inserting "404 (relating to State permit programs)," immediately before "and 504".*

(2) *Section 309 of the Federal Water Pollution Control Act is amended—*

(A) *in subsection (a)(1) thereof, by striking out "section 402" and inserting in lieu thereof "section 402 or 404";*

(B) *in subsection (a)(3) thereof, by inserting "or in a permit issued under section 404 of this Act by a State" immediately after "State";*

(C) *in the first sentence of subsection (c)(1) thereof, by inserting "or in a permit issued under section 404 of this Act by a State" immediately after "State"; and*

(D) *in subsection (d) thereof, by inserting "or in a permit issued under section 404 of this Act by a State," immediately after "State,".*

SLUDGE DISPOSAL

Sec. 68. (a) Section 405(a) of the Federal Water Pollution Control Act is amended by striking out, "under this section" and inserting in lieu thereof "under section 402 of this Act".

(b) *Section 405(b) of the Federal Water Pollution Control Act is amended by striking out hte period at the end of the first sentence and inserting in lieu thereof "and section 402 of this Act.".*

(c) *The last sentence of section 405(b) of the Federal Water Pollution Control Act is amended by striking out ", as the Administrator determines necessary to carry out the objective of this Act".*

(d) *Section 405(c) of the Federal Water Pollution Control Act is amended by striking out "if upon submission" and all that follows*

down through the period at the end thereof and inserting in lieu thereof the following: "in accordance with section 402 of this Act.".

EMERGENCY FUND

SEC. 69. Section 504 of the Federal Water Pollution Control Act is amended by inserting "(a)" immediately after "SEC. 504." and by adding at the end thereof the following:

"(b)(1) The Administrator is authorized to provide assistance in emergencies caused by the release into the environment of any pollutant or other contaminant including, but not limited to, those which present, or may reasonably be anticipated to present, an imminent and substantial danger to the public health or welfare.

"(2) There is hereby established a contingency fund to carry out paragraph (1) of this subsection and there is authorized to be appropriated to such fund not to exceed $10,000,000. The amounts appropriated under this paragraph shall remain available until expended. There is authorized to be appropriated such sums as are necessary to maintain that portion of such fund available for emergency assistance at a $10,000,000 level.

"(3) The Administrator shall submit a report annually to each House of Congress on his activities in carrying out this subsection.

"(4) This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Nothing contained in this subsection shall (A) affect any final action taken under such other Federal law, or (B) in any way affect the extent to which human health or the environment is to be protected under such other Federal law.

"(5) The Administrator is authorized to provide emergency assistance under this subsection whenever the Administrator determines—

"(A) such assistance is immediately required to prevent, limit, or mitigate the emergency;

"(B) there is an immediate significant risk to the public health or welfare and the environment; and

"(C) such assistance will not otherwise be provided on a timely basis.

"(6) Emergency assistance provided under this subsection may include (A) measures to abate and remedy the emergency, (B) the performance of research on the effects of an emergency on public health, welfare, and the environment, and (C) providing officers and employees of the agency to administer, at the site of any emergency, the authority under this or other Federal law to minimize and mitigate the adverse effects of the emergency.

"(7) The Administrator shall prepare and publish a contingency plan for responding to emergencies under this subsection. Such contingency plan shall include actions and responsibilities comparable to those specified in section 311(c)(2) of this Act.

"(8) If emergency assistance is provided under this subsection in an emergency caused by the discharge of any pollutant subject to section 311 of this Act, the cost of such assistance shall, at the discretion of the Administrator, be a cost of removal for the purposes of subsections (f) and (g) of such section, and added to any liability which may be imposed under subsection (b)(2) of such section.

"(9) *The cost of any emergency assistance provided under this subsection in an emergency caused by the discharge of a pollutant in violation of any requirement of section 301, 306, 307, 402, or 403 of this Act, shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309 of this Act.*".

COMBINED SEWER OVERFLOWS

SEC. 70. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(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.*".

UTILIZATION OF TREATED SLUDGE

SEC. 71. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows:

"(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.*".

WATER SUPPLY-WASTEWATER TREATMENT COORDINATION

SEC. 72. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(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.".

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 Administrator 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 secton 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 indus-

trial 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) During the period beginning on the date of enactment of this section and ending on the last day of the eighteenth month which begins after the date of enactment of this section (both dates inclusive), no officer or employee of the Federal Government shall enforce, or require any recipient of a grant under section 201(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1284) to enforce, any provision in an application for a grant or in a grant agreement under such section which requires any payments by industrial users pursuant to section 204(b)(1)(B) of such Act.

(c) For 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) Any payment by an industrial user which, but for subsection (b) of this section, was due and payable during the eighteen-month period described in such subsection shall after such eighteen-month period be paid in accordance with the applicable provisions of the Federal Water Pollution Control Act in equal annual installments prorated over the remaining useful life of the treatment works with respect to which they are required to be paid.

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 dems 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.

And the Senate agree to the same.

HAROLD, T. JOHNSON,
RAY ROBERTS,
GLENN M. ANDERSON,
ROBERT A. ROE,
JOHN BREAUX,
BO GINN,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
BOB STUMP,
WILLIAM HARSHA,
JAMES C. CLEVELAND,
DON H. CLAUSEN,
GENE SNYDER,

Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
MIKE GRAVEL,
QUENTIN BURDICK,
JOHN CULVER,
GARY HART,
WENDELL R. ANDERSON,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
MALCOLM WALLOP,
JAMES A. MCCLURE,
PETE V. DOMINICI,
HOWARD BAKER,

Managers on the Part of th eSenate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

This Act may be cited as the "Federal Water Pollution Control Act Amendments of 1977".

Senate amendment

This Act may be cited as the "Clean Water Act of 1977".

Conference substitute

The conference substitute is the same as the Senate amendment.

AUTHORIZATION APPROVAL

House bill

Authorizes funds for fiscal year 1976 and the transition quarter which were previously appropriated for expenditure under the Federal Water Pollution Control Act [hereinafter in this statement referred to as the "Act"].

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill with the addition of the fiscal year 1977.

AUTHORIZATION EXTENSION

House bill

Section 3 provides for the following authorizations:

(1) Manpower training (section 104(u)(2)), not to exceed $2,000,000 for fiscal year 1977, and not to exceed $3,000,000 for fiscal year 1978.

(2) Manpower forecasting (section 104(u)(3)), not to exceed

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$1,000,000 for fiscal year 1977, and not to exceed $1,500,000 for fiscal year 1978.

(3) Program grants to State and interstate water pollution control agencies (section 106(a)(2)), $100,000,000 for each of the fiscal years 1977 and 1978.

(4) Training grants and scholarships to institutions of higher education (section 112(c)), $6,000,000 for fiscal year 1977, and $7,000,000 for fiscal year 1978.

(5) Grants for the costs of developing and operating areawide waste treatment management planning processes (section 208(f)(3)), not to exceed $150,000,000 for each of the fiscal years 1977 and 1978.

(6) Grants for the Clean Lakes program (section 314(c)(2)), $50,000,000 for fiscal year 1977, and $60,000,000 for fiscal year 1978.

(7) Funds for the Environmental Protection Agency to carry out sections of this Act for which no other specific authorization is provided (section 517), $150,000,000 for fiscal year 1977, and $150,000,000 for fiscal year 1978.

Senate amendment

Section 3 provides for the following authorizations:

(1) Manpower training (section 104(u)(2)), not to exceed $7,500,000 for each of the fiscal years 1978, 1979, and 1980.

(2) Manpower forecasting (section 104(u)(3)), not to exceed $2,500,000 for each of the fiscal years 1978, and 1979, and 1980.

(3) Program grants to State and interstate water pollution control agencies (section 106(a)(2)), $75,000,000 for each of the fiscal years 1978, 1979, and 1980.

(4) Training grants and scholarships to institutions of higher education (section 112(c)), $25,000,000 for each of the fiscal years 1978, 1979, and 1980.

(5) Grants for the costs of developing and operating areawide waste treatment management planning processes (section 208(f)(3)), not to exceed $150,000,000 for each of the fiscal years 1978, 1979, and 1980.

(6) Grants for the Clean Lakes program (section 314(c)(2)), $150,000,000 for each of the fiscal years 1978, 1979, and 1980.

(7) Funds for the Environmental Protection Agency to carry out sections of this Act for which no other specific authorization is provided (section 517), $350,000,000 for each of the fiscal years 1978, 1979, and 1980.

Conference substitute

The conference substitute provides funding at the level authorized for fiscal year 1978 in the House bill for the 3-year period authorized by the Senate amendment.

The conferees expect the Administrator to redesign the budget for fiscal 1979 and thereafter so that appropriation requests will specifically reflect applicable authorizations. For example, funds for the Clean Lakes program should be identified in terms of the authorization for Clean Lakes. Funds for training programs should be specifically identified in relation to the authorization for training programs, and so on. The Congress must know the relationship of appropriations to authorizations in order to determine whether or not programs are being implemented as intended.

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STATE JURISDICTION

House bill

No comparable provision.

Senate amendment

This section amends section 510 of the Act to provide that any authority now vested in a State to establish or operate programs for the allocation of waters within the State or any rights to, or allocations of, waters pursuant to such programs shall not be abrogated or otherwise affected by any other provision of this Act.

Conference substitute

The conference substitute amends section 101 of the Act to add a new subsection declaring it the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction should not be superseded, abrogated or otherwise impaired by this Act. It is further the policy of Congress that nothing in this Act should be construed to supersede or abrogate rights to quantities of water that have been established by any State. Federal agencies are to cooperate with State and local agencies to develop solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources. In addition, the Administrator is required to submit a report before July 1, 1978, analyzing the relationship between programs under this Act and State and Federal programs for allocation of water. This report is to include necessary recommendations.

This provision is intended to clarify existing law to assure its effective implementation. It is not intended to change existing law.

ESTUARINE STUDY

House bill

No comparable provision.

Senate amendment

Amends section 104 of the Act to permit the estuarine report to be submitted every six years instead of every three years.

Conference substitute

The conference substitute is the same as the Senate bill.

CLEARINGHOUSE FOR ALTERNATIVE TREATMENT INFORMATION

House bill

No comparable provision.

Senate amendment

The Senate amendment further amends section 104 of the Act to establish a national clearinghouse for the collection and dissemination of information developed on alternative treatment technologies.

Conference substitute

The conference substitute is the same as the Senate amendment with additional authority granted the Administrator to establish a national clearinghouse within the agency or through other public or private nonprofit organizations.

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ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

House bill

No comparable provision.

Senate amendment

This section amends section 105 to authorize grants for those costs of operating and maintaining a project which received a grant under section 104, 105, or 113 which exceed the operation and maintenance costs for a comparable community using a conventional treatment works.

Conference substitute

The conference substitute is the same as the Senate amendment restricted however to those grants made prior to the date of the enactment of the subsection.

The conferees have identified six projects under section 104 which would be eligible for operation and maintenance assistance under this provision. They include: Ely, Minnesota; Rocky River, Ohio; Lake Tahoe, California; Colorado Springs, Colorado; Piscataway, Maryland; and El Lago, Texas, The conferees understand that the expected annual cost of these projects will not exceed $500,000.

In addition, the conferees expect the Administrator to review the Greenville, Maine and Avalon, California projects for the purpose of providing any appropriate operation and maintenance assistance during the period in which those communities are studying and making necessary modifications to reduce excessive operation and maintenance costs.

TRAINING GRANTS

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment except that it restricts the exemption to section 204(a)(3) only. In addition, if a grant is made to serve more than one State, an additional grant is authorized for a supplemental facility in each of those States.

The only provision under section 204(a)(3) from which training grants are exempted relates to the priority list requirement.

The amendment in section 10(d) of this Act which amends section 109(b)(1) of the Federal Water Pollution Control Act is intended to allow grants for 100 per centum of any additional costs of construction of waste treatment works required for a facility to train and upgrade waste treatment works operational and maintenance personnel. For example, a given facility could include classrooms at a local school and additional laboratory or training facilities or other facilities at more than one treatment works. The school facility would be central to the operation but satellite facilities at more than one treatment works would be considered to be part of an over-all training site.

Training programs under this section would not be limited to employees of State and local governments but could also be made available, on a cost reimbursable basis, to nongovernmental personnel.

RURAL VILLAGE STUDY

House bill

No comparable provision.

Senate amendment

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

This section requires a comprehensive planning study which will result in a coordinated approach of assuring adequate sanitation services in Alaska.

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

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

Conference substitute

The conference substitute is the same as the Senate amendment with the additional requirement that the study be coordinated with, and not duplicative of, programs and projects authorized by sections 104(q) and 105(e)(2) of the Act.

GRANTS FOR INNOVATIVE AND ALTERNATIVE TECHNOLOGY

House bill

No comparable provision.

Senate amendment

Section 6 amends section 105 of the Act to provide 100-percent funding for research and development projects which demonstrate innovative technology, if such a project is on a State's priority list under section 303 of the Act. Such grants are now limited to 75 percent of the total cost. Under this new provision, the non-Federal costs of such projects may be provided from a State's allotment under the construct grant program. The total amount of such funds used for this purpose may not exceed one-half of 1 percent of a State's allotment.

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Conference substitute

Section 9 of the conference substitute amends section 105 of the Act to authorize a grant to anyone who received an increased grant pursuant to section 202(a)(2) of the Act. This grant may pay up to 100 percent of the costs of technical evaluation of the costs of treatment works, the costs of training persons, and costs of disseminating technical information. Section 12 of the conference substitute amends section 201(g) of the Act to add a new paragraph (5) prohibiting the Administrator from making grants after fiscal year 1978 for treatment works unless the applicant satisfactorily demonstrates that innovative and alternative waste water treatment processes and techniques have been fully studied and evaluated and taking into account and allowing, to the extent practicable, for more efficient use of energy and resources. Section 15 of the conference substitute amends section 201 to require the Administrator to encourage waste treatment management methods, processes, and techniques which reduce total energy requirements. Section 16 of the conference substitute amends section 201 to authorize the Administrator to make a grant for treatment works utilizing processes and techniques meeting section 304(d)(3) guidelines if the Administrator determines it to be in the public interest and if in the cost effectiveness study the life cycle cost of the works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum. Section 17 of the conference substitute amends section 202(a) of the Act to provide that the amount of any grant made after September 30, 1978, and before October 1, 1981, for eligible treatment works, or significant portions thereof, utilizing innovative or alternative waste water processes and techniques shall be 85 per centum of the cost of construction. A State must maintain its proportionate contribution to the non-Federal share of these costs. Additionally, the Administrator is authorized to make a grant to fund all costs of modification or replacement of facilities constructed with such a grant if they fail to meet design performance specifications, unless this failure is attributable to negligence, and has significantly increased capital or operating and maintenance expenditures. For the purpose of this provision, "eligible treatment works" is defined as those which meet section 201(g)(5) requirements and can be fully funded from funds available to the State in fiscal years 1979, 1980, and 1981. It does not include collector sewers, interceptors, storm or sanitary sewers or the separation thereof, or major sewer rehabilitation.

Section 20 of the conference substitute amends section 204(a)(3) of the Act to provide that section 303(e)(3)(H) priority lists may be modified by a State to give higher priority for grants for construction drawings and specifications (Step 2) for treatment works using processes and techniques meeting section 304(d)(3) guidelines and giving higher priority for grants for the combined Federal share of construction drawings and specifications and building and erection of treatment works (Steps 2 and 3) meeting the requirements of the next to the last sentence of section 203(a) of this Act which utilize processes and techniques meeting section 304(d)(3) guidelines. Section 28 of the conference substitute amends section 205 of the Act to provide that not less than ½ of 1 per centum of funds allotted to a State for each of the fiscal years 1979 through 1981 shall be expended only for

increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques from 75 to 85 per centum and that including the ½ of 1 per centum, 2 per centum per year for fiscal years 1979 and 1980, and 3 per centum for fiscal year 1981, of funds allotted to a State shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202(a)(2). Section 37 of the conference substitute amends section 212(2)(A) of the Act to include land used for storing treated waste water in land treatment systems prior to land application within the definition of the term "treatment works" for the purposes of title II of this Act. Section 38 of the conference substitute amends title II to add a new section requiring the Administrator to develop and operate a continuing program of public information and education on recycling and reuse of waste water (including sludge), the use of land treatment, and methods for reducing waste water volume. Section 49 of the conference substitute amends section 304(d) of the Act to add a new paragraph (3) which requires the Administrator to promulgate guidelines for identifying and evaluating innovative and alternative waste water treatment processes and techniques referred to in section 201(g)(5). This is to be done within six months. Section 60 of the conference substitute amends section 313 of the Act to require the Administrator, in coordination with other Federal agencies, to develop a program of cooperation for using waste water control systems utilizing innovative treatment processes and techniques for which there are guidelines under section 304(d)(3), including an inventory of facilities which could utilize these processes and techniques. After September 30, 1979, construction shall not be initiated for waste water treatment facilities on any Federal property or facility if alternative methods utilizing innovative treatment processes and techniques are not utilized unless the life cycle cost of the alternative exceeds the life cycle cost of the most cost effective alternative by more than 15 per centum. The Administrator may waive this where he determines it to be in the public interest or that compliance would interfere with complying with a permit issued under section 402 of the Act. Section 72 of the conference substitute amends section 516 of the Act to require the Administrator to submit to Congress within two years a report, with recommendations, on a program to require coordination between water supply and waste water control plans as a condition to grants for construction of treatment works under this Act. Public hearings must be held on this report.

Sections 9, 12, 13, 15, 16, 17, 21, 28, 37, 38, 49, 60, and 72 have been incorporated into this conference report to expand the treatment works construction grant program utilization of innovative and alternative waste water treatment processes and techniques. These sections generally follow a series of provisions in H.R. 9464. They are intended to result in a major reorientation of the construction grant program.

The 1972 amendments redirected the water pollution program to municipal waste treatment alternatives which would lead to reclaiming and recycling of water and the confined and contained disposal of wastes so that pollutants would not migrate to cause environmental pollution. Little was done to achieve this result. The purpose of the grant level increases set forth in section 28 for projects consistent with this program and the series of related amendments is to underscore

and expand that 1972 intent by providing supplemental assistance for innovative and alternative waste treatment processes and techniques. This supplemental assistance program is intended to force technology so that new and better alternatives will be utilized.

The Administrator has been provided all of the legislative tools needed to require the utilization of such innovative and alternative waste water treatment processes and techniques.

Care should be taken in the evaluation of grant applications to avoid unnecessary studies, investigations or analyses which are irrelevant to, and unaffected by, application of new technology, recycling, reuse or land treatment.

The provisions for increased grants for publicly owned treatment works utilizing innovative and alternative technology has been specifically phased in to avoid delays in on-going step 1 and step 2 projects. The Administrator is cautioned in promulgation of regulations and implementation of these sections not to cause delays in the construction grant program. The environmental benefits to be realized from these sections on innovative and alternative technology should not be vitiated by such delays.

While treatment works construction grant funds are authorized for 5 years by section 30 of this Act, it is to be noted that section 17 provides for increased grants for treatment works using alternative and innovative technology for 3 years only. This provision is not applicable to grants made from funds authorized from either the first or the last year for which grant funds are available. It is expected that Congress will evaluate the program at the same time Congress considers an allotment formula for the grant funds authorized for fiscal year 1982.

While funds to increase construction grants to 85 percent are made available only for fiscal years 1979, 1980, and 1981, it is important to recognize that while 2 percent of the construction grant funds are set aside for fiscal years 1979 and 1980 to carry out this program, 3 percent is set aside for fiscal year 1981. This underscores the intent of Congress to increase the number of projects utilizing innovative and alternative technology. During fiscal year 1981 over 25 percent of new grant awards should utilize such technology.

Nothing in this section is intended to reduce the current emphasis on funding cost effective alternatives to conventional treatment under the basic grant program.

It is not intended that conventional processes including advanced biological treatment processes or advanced waste treatment systems utilizing distillation, nitrification, and denitrification or breakpoint chlorination be eligible for the increased Federal share. In addition to improved methods for conventional treatment, innovative technology should include such techniques as nutrient utilization and reclaiming or recycling of water.

The Administrator is expected to coordinate promptly with the other heads of departments, agencies, or instrumentalities of the Federal Government which have jurisdiction over any property or facility utilizing federally owned waste water facilities. The Federal Government is expected to be a leader in the use of alternative and innovative treatment processes and techniques. The cost effectiveness provision of section 60 is a mechanism for forcing the use of such processes and techniques. Section 60 allows the Administrator to

waive the application of such processes and techniques where he determines it to be in the public interest. This authority is not intended to be a means for negating the 15 per centum cost effectiveness provision. The Administrator is not expected to waive this requirement unless there is a clear showing that on-going projects would be delayed or that important public interest considerations cannot be met.

RECREATION AND OPEN SPACE

House bill

No comparable provision.

Senate amendment

This section amends section 204(a) of the Act to require the Administrator before approving a grant to determine that the applicant has analyzed potential recreation and open space opportunities in the design of the proposed works.

Conference substitute

The conference substitute amends section 201 to provide that the Administrator shall not make grants after fiscal year 1978 for any treatment works unless the grant applicant shows it has analyzed potential recreation and open space opportunities in planning proposed works.

INDIVIDUAL SYSTEMS

House bill

No comparable provision.

Senate amendment

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

Conference substitute

Same as the Senate amendment except that the public body is required to certify that public ownership is not feasible. The public body must enter into an agreement with the Administrator that includes a system of charges to insure each recipient of services will pay its proportionate share of operation and maintenance costs. Such agreement must also provide for payment to the United States by commercial users of that part of the cost applicable to treatment of commercial waste attributable to the Federal share of the construction cost.

Ordinarily this authority will not be used to construct septic tanks serving single residences.

This subsection may be used only to construct or acquire waste treatment facilities, and not commodes or associated plumbing.

This section is intended to be utilized to provide for the construction of alternative or unconventional treatment works for individual residences or clusters of residences. Secondary treatment package plants do not meet the requirements of this section.

COMBINED GRANTS

House bill

Section 5 amends section 203 of the Act to provide that the Administrator may after approval of a Step 1 facility plan which contains estimates of the cost to complete the project, award a single grant for preparing construction drawings and specifications (Step 2) and the building and erection of the treatment works (Step 3) combined in a single application, where the total cost of Steps 2 and 3 for this grant would not exceed $1,000,000.

Senate amendment

Section 16 amends section 203 of the Act to authorize the award of a combined step 2 and step 3 grant in the case of a treatment works costing less than $2 million which will serve a population of 25,000 or less. In States which have unusually high construction costs, the grant limitation may be increased to $3 million.

Conference substitute

The conference substitute is the same as the Senate amendment.

The provision for increasing combined grants from $2 million to $3 million is intended for the high construction cost areas of Alaska and Hawaii.

CONTRACT ENFORCEMENT

House bill

No comparable provision.

Senate amendment

This section amends section 203 of the Act to authorize EPA or a State agency to be made a party to contracts for the design and/or construction of a treatment works assisted under title II of the Act.

Conference substitute

The conference substitute amends section 203 of the Act to authorize the Administrator, upon request of the grantee, to provide technical and legal assistance in administering and enforcing any contract in connection with treatment works assisted under title II, and to intervene in any civil action involving the enforcement of such a contract.

RESERVE CAPACITY

House bill

No comparable provision.

Senate amendment

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

Conference substitute

Amends section 204(a)(5) of the Act to require the Administrator in determining the amount of reserve capacity to take into account efforts

to reduce total flow of sewage and unnecessary water consumption. The amount of reserve capacity eligible for a grant under title II of the Act 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 area-wide plan under section 208 or an applicable municipal master plan of development. For the purpose of section 204(a)(5), 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.

USER CHARGES

House bill

Section 6 amends section 204(b) of the Act to permit the use of ad valorem taxes as a method of collecting the costs of operating and maintaining a municipal waste treatment works which was constructed with the assistance of a Federal grant provided under title II of the Act.

Section 6 provides that a grant applicant which is using an ad valorem tax system to collect any municipal revenues at the time of application for a Federal construction grant may be eligible to use this system for the purpose of collecting revenues to defray the costs of operating and maintaining the proposed treatment works. The Administrator would be required to determine that the ad valorem tax system would result in a proportional distribution of costs between user classes according to each class' use of the treatment work.

In addition, section 6 requires proportionality within the class of industrial users as defined by section 502(18) of the Act. The grant applicant would be required to establish surcharges to ensure that each industrial user pays its proportionate share of the cost on the basis of volume, strength, and other relevant factors.

Senate amendment

Section 19 amends section 204(b)(1) of the Act to authorize user charges based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. The charges must meet the requirements of subsection 204(b)(1)(A) that each recipient pay its proportionate share of costs of operation and maintenance (including replacement) of any waste treatment services provided.

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

Conference substitute

Amends section 204(b)(1) to provide that in any case where an applicant which, as of the date of enactment of the 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 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 section 204(b)(1) 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. A system of charges which meets the requirement of section 204(b)(1)(A) may be based on something other than metering the sewage or water supply flow of residential recipients of waste treatment services, including ad valorem taxes. If the system of charges is based on something other than metering the Administrator shall require (i) the applicant to establish a system by which the necessary funds will be available for the proper operation and maintenance of the treatment works; and (ii) the applicant to establish a procedure under which the residential user will be notified as to that portion of his total payment which will be allocated to the costs of the waste treatment services.

INDUSTRIAL COST RECOVERY

House bill

No comparable provision.

Senate amendment

Amends section 204 of the Act to permit the exemption of small discharges (less than 2,500 gallons a day) from industrial cost recovery requirements. It also permits publicly owned, multiplant treatment works systems to be treated as a single system so that several significant economic burdens of industrial cost recovery are avoided.

Conference substitute

The same as the provisions of the Senate amendment except that the daily flow rate exemption is set at the equivalent of 25,000 gallons or less of sanitary waste but only if the industrial user does not introduce into the works any pollutant which interferes with, or contaminates or reduces the utility of the sludge of the works. This subject matter is further discussed under the center heading "Cost Recovery Study and Water Conservation".

ALLOTMENT

House bill

Section 7 amends section 205 of the Act to provide an allotment formula for the fiscal year 1977 and fiscal year 1978 authorizations. The allotment formula is as follows: one-fourth on the basis of population, one-half on the basis of partial needs (secondary treatment, more stringent treatment to meet water quality standards, interceptor sewers and appurtenances), and one-fourth on the basis of total needs

(partial needs plus collector sewers, combined sewers, and infiltration/inflow). The formula does not include any estimates of treating storm-water flows. The formula is based on the May 6, 1975, EPA report, "Cost Estimates for Construction of Publicly-Owned Waste Water Treatment Facilities—1974 'Needs' Survey".

In addition, section 7 amends section 205 of the Act to establish a new allotment procedure for funds authorized for fiscal year 1977 and beyond. The entire authorization for the fiscal year is allotted to the States on the first day of the fiscal year for which it is authorized according to the statutory allotment formula. This eliminates the six-month lead time now in the law.

The amount of the authorization available for obligation in any fiscal year is subject to limitations on obligations set by appropriation Acts. The limitations shall be applied to each State in proportion to its allotment.

The amounts which are available for obligation remain available for obligation for the fiscal year during which they could first be obligated and for the period of the next 16 months.

Any funds not obligated by the end of the period for which they were made available will be immediately realloted among the States by EPA according to the formula applicable to sums allotted for the current fiscal year. Any State which contributes funds to the amounts subject to reallotment is ineligible to receive any portion of the reallotted monies. Any sum made available to a State by reallotment shall be in addition to any funds otherwise allotted to the State for waste treatment works construction grants during any fiscal year.

Further, section 7 provides that sums made available to the Administrator for obligation between January 1, 1975, and March 1, 1975, shall remain available for obligation until September 30, 1978.

Senate amendment

Section 12(c) amends section 205 of the Act to provide two allotment formulas for the distribution of funds authorized under the Act. For fiscal year 1977 funds, the committee agreed to the formula used for the distribution of the $1 billion already made available in the fiscal year 1977 supplemental appropriations Act. That formula is 25 percent 1975 population, 25 percent total needs, and 50 percent needs, as represented in the 1974 Needs Survey.

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

There is an additional provision that notwithstanding either formula, no State shall receive less than one-half of 1 percent of the total allotment. Additional sums are authorized for this purpose.

The amendment to section 205 also provides an additional authorization so that no State's proportional allotment in each of the fiscal years 1978 through 1982 will be reduced by more than 25 per centum of its proportional share allotment under the 1977 formula.

Section 11 amends section 205(b) of the Act to extend the period of time of sums made available during fiscal year 1976 to September 30, 1978.

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Conference substitute

Provides that sums authorized to be appropriated pursuant to section 207 for fiscal years 1978 through 1981 shall be allotted for each such year within 10 days of the date of enactment of the Clean Water Act of 1977. The allotment is to be in accordance with table 3 of House Public Works and Transportation Committee Print Numbered 95–30. Sums allotted are available for the fiscal year authorized and the next succeeding 12 months. Funds not obligated are reallotted on the basis of the then current fiscal year ratio except none of the reallotted funds shall be allotted to any State that failed to obligate any of the funds being reallotted. Reallotted funds are in addition to funds allotted to a State in any fiscal year. For the fiscal years 1978, 1979, 1980, and 1981 no State is to receive less than one-half of 1 per centum of the total allotment except that Guam, the Virgin Islands, American Samoa, and the Trust Territories are in the aggregate to be allotted not more than thirty-three one-hundredths of 1 per centum. A separate authorization of $75 million per year for fiscal years 1978, 1979, 1980, and 1981 is provided for these minimum allotments.

Following is table 3 of House Public Works and Transportation Committee Print Numbered 95–30.

TABLE 3.—*Allotment formula for construction grant funds*

State	*Percentage*	*State*	*Percentage*
Alabama	1.2842	New Hamshire	.8810
Alaska	.4235	New Jersey	3.5715
Arizona	.7757	New Mexico	.3819
Arkansas	.7513	New York	10.6209
California	7.9512	North Carolina	1.9808
Colorado	.9187	North Dakota	.3107
Connecticut	1.1072	Ohio	6.4655
Delaware	.3996	Oklahoma	.9279
District of Columbia	.3193	Oregon	1.2974
Florida	3.8366	Pennsylvania	4.3616
Georgia	1.9418	Rhode Island	.5252
Hawaii	.7928	South Carolina	1.1766
Idaho	.4952	South Dakota	.3733
Illinois	5.1943	Tennessee	1.5486
Indiana	2.7678	Texas	4.3634
Iowa	1.2953	Utah	.4457
Kansas	.8803	Vermont	.3845
Kentucky	1.4618	Virginia	1.9602
Louisiana	1.2625	Washington	1.7688
Maine	.7495	West Virginia	1.7903
Maryland	2.7777	Wisconsin	1.9503
Massachusetts	2.9542	Wyoming	.3003
Michigan	4.1306	American Samoa	.0616
Minnesota	1.8691	Guam	.0744
Mississippi	.9660	Puerto Rico	1.1734
Missouri	2.4957	Trust Territories	.1530
Montana	.3472	Virgin Islands	.0378
Nebraska	.5505		
Nevada	.4138	Total	100.0000

NOTE.—Allotments for the States of Alaska, Delaware, District of Columbia, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, Vermont, and Wyoming are less than ½ of 1 percent of the total allotment of treatment works construction grant funds for a fiscal year. Sec. 25(e) of the Clean Water Act of 1977 provides that for fiscal years 1978, 1979, 1980, and 1981, no State shall receive less than ½ of 1 percent of the total allotment. An authorization of $75,000,000 is provided for each of these fiscal years to carry out this provision. The following States would share any amount appropriated under this subsection in the following percentages. Alaska, 5.4449; Delaware, 7.1459; District of Columbia, 12.8612; Idaho, 0.3416; Montana, 10.8755; Nevada, 6.1352; New Mexico, 8.4057; North Dakota, 13.4733; South Dakota, 9.0178; Utah, 3.8648; Vermont, 8.2206; and Wyoming, 14.2135.

STATE MANAGEMENT ASSISTANCE

House bill

Adds a new section 214 to title II of the Act. Under this provision, the Administrator of EPA may accept from States qualifying to participate, certifications as to their compliance with the Act in developing applications for treatment works grants. Qualified states are defined as those whose water pollution control agencies have the authority, responsibility and capability to effect all actions, determinations or approvals for which certification is submitted.

Section 214 authorizes the Administrator to accept certification by a State that the following Federal requirements for a construction grant award had been complied with:

Evaluation of alternative waste management techniques; determination that the proposed treatment works will provide for the application of the best practicable waste treatment technology over the life of the works and will allow for the later application of advanced treatment technology (section 201(g)(2));

The proposed treatment works is not subject to excessive infiltration (section 201(g)(3));

Plans, specifications, and estimates have been submitted (section 203(a));

Stages of projects may be eligible for a grant award (section 203(d));

The proposed works are consistent with applicable areawide waste treatment management plans and State water quality plans (section 204(a)(1) and (a)(2));

The works are entitled to priority for funding over other works in the State (section 204(a)(3));

The grant applicant agrees to pay non-Federal costs and has made provisions for proper operation and maintenance of the works (section 204(a)(4));

The proposed works contains sufficient reserve capacity (section 204(a)(5));

Bid specification requirements will be complied with (section 204(a)(6));

The user charge and industrial cost recovery provisions of the Act have been complied with (section 204(b)(1) and (b)(3));

The proposed treatment works system is eligible for a grant under the definition of "treatment works" (section 212(2)(B)).

Subject to the Administrator's approval, after public hearings, and to judicial review, with respect to qualifications to conduct a certification program, States receiving certification authority would exercise this authority by certifying to the Administrator that projects are in compliance with all or a portion of legal, financial, technical, and administrative requirements.

Certification authority could be carried out by a State for all or a part of the actions, determinations or approvals for which certification may be accepted as its capabilities warrant at a given time.

Also, the section provides that the Administrator must determine that the State is following practices that conform to the Federal construction grant regulations under the Act, including a requirement that any person having a significant financial interest in the construction of treatment works will not be a member of any State board or body which processes an application for a grant under this title.

Under section 214, the Administrator is required to issue implementing regultaions within 90 days of the date of the enactment of the bill.

Section 214 addresses the possibility of failure by States to meet the requirements of this section. If, after public hearing, the Administrator determines a State is not meeting the requirements for one or more of the actions, determinations, or approvals for which certification is accepted from that State the Administrator may suspend acceptance for any or all projects in the State. In the event of such suspension, the Administrator at his discretion may reinstate that State's program for any or all projects upon receiving evidence that the deficiencies have been corrected.

The responsibilities of the Administrator under any other Federal law including the National Environmental Policy Act of 1969 are not affected by this section.

This section does not change the Administrator's responsibility to award Federal grants. Neither does it affect the existing procedures for environmental assessments.

States participating in this program are permitted to expend up to two percent of their construction allotments from section 205 of the Act for the reasonable costs of carrying out this responsibility.

The amount up to 2 percent reserved for this purpose may be granted by the Administrator from time to time to a State for carrying out the certification authority. A grant made from the amount reserved may be obligated by the States in the same manner as for construction projects and during the same period as the allotment from which the grant is made. Funds so obligated shall be available until expended.

This section further requires the Administrator to conduct interim and final inspections and audits for the State water pollution control agencies to submit information, data, and reports.

Senate amendment

Section 22 amends section 205 of the Act to authorize reservation of up to 2 percent of a State's construction grant allotment, but no less than $400,000, for use by the State in administering any aspects of the construction grant program. Such funds may be increased to assist in the administering of the 402 permit program, statewide 208 planning, and responsibility for managing construction grants for small communities.

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

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

Sums reserved for making grants under this provision shall be available for the same period as sums are available from an allotment under subsection (b) of section 205 of the Act, and any grant shall be available for obligation only during that period. Reserve funds that are not obligated by the end of the period for which they are available

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will be added to the amounts last allotted to a State under such section 205 and would be immediately available for obligation in the same manner and to the same extent as such last allotment.

Conference substitute

The conference substitute is the same as the Senate amendment except that the grant eligibility is expanded to include costs of administering section 212 of the Act.

In addition, section 101(b) of the Act is amended to declare it the policy of Congress that States manage the construction grant program and implement the sections 402 and 404 permit programs.

The conferees intend that the sums made available under this provision should not be used to reduce the level of Federal or State expenditures to administer water pollution control programs as provided in section 106 of this Act.

SET-ASIDE FOR ALTERNATIVE SYSTEMS FOR SMALL COMMUNITIES

House bill

No comparable provision.

Senate amendment

This section amends section 205 of the Act to require the setting aside of between 5 percent and 10 percent of construction grant funds alloted to a rural State (States with a rural population of 25 percent or more of the total population of the State) for use only for alternative or unconventional systems for communities of 3,500 or less or for highly dispersed sections of larger communities. Nonrural States may request, through the Governor, a set-aside of up to 10 percent of its grant allotment to be used for such purposes.

Conference substitute

The conference substitute is the same as the Senate amendment except that the amount of the set-aside is 4 per centum of the allotted sums and the term "municipalities" is used in place of "communities."

For the purpose of this section, "rural" States are those having 25 percent or more of their total population residing in places with a population of 2,500 or less.

A table of States ranked by percent of rural population consistent with this section is set forth on pages 33 and 34 of Senate Committee on Environment and Public Works Report No. 95–370.

Nothing in this section is to affect existing administrative policy for the establishment of a reserve for small communities where a State chooses to set aside a reasonable percentage of its funds for the projects of such small communities. For the purpose of this policy, the State determines the definition of "small community", subject to approval by the Administrator. States whose priority lists now reflect a set-aside of a proportional share of construction funds for small communities include Texas, Michigan, and Maryland.

REIMBURSEMENT AND ADVANCED CONSTRUCTION

House bill

Section 8 amends section 206(a) of the Act to extend from July 1, 1972, to July 1, 1973, the date by which initiation of construction on

treatment works projects must have occurred in order for such projects to be eligible for reimbursement grants of 50 to 55 percent of project costs. Applications for reimbursement for those projects on which construction was initiated between July 1, 1972, and July 1, 1973, must be filed within 90 days after the date of enactment of this section.

Section 8 also amends section 206(e) of the Act to increase the authorization for reimbursement grants from $2,600,000,000 to $2,950,000,000 for the purpose of fully reimbursing the total eligible grant amount of 50 to 55 percent to all those communities which have previously qualified under section 206(a) and those communities which become eligible under the provisions of this section.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House provision with the following exceptions:

(1) construction must have been initiated before July 1, 1973,

(2) the grant must have been made under Public Law 660, 84th Congress, and

(3) the increased authorization has been eliminated.

The purpose of this amendment is to give equitable treatment to Public Law 84–660 projects which received less than either their 50 percent or 55 percent eligible grants and which were unable to initiate construction by the June 30, 1972 cut-off date to qualify for reimbursement under section 206(a).

Additional authorizations have not been requested as there remains $200,000,000 of unused authorizations for this purpose and the estimated amount needed for projects that would become eligible with this amendment is $40 million.

The term "initiation of construction" as used in this section means the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract (40 C.F.R. 35.890).

This section does not affect the term "initiation of construction" as defined by the Administrator in 40 C.F.R. 35.905, as presently in effect.

CONSTRUCTION GRANT AUTHORIZATIONS

House bill

Section 9 amends section 207 of the Act to provide additional authorizations for the purpose of providing 75 percent Federal grants for the construction of municipal waste treatment works. An authorization of $5,000,000,000 is provided for fiscal year 1977, $6,000,000,000 for fiscal year 1978, and $6,000,000,000 for fiscal year 1979.

Senate amendment

Section 12(a) amends section 207 of the Act to provide authorizations for the municipal construction grant program of $3,500,000,000 for fiscal year 1977, and $4,590,000,000 for each of the fiscal years 1978, 1979, 1980, 1981, and 1982.

Conference substitute

The conference substitute authorizes $4,500,000,000 for fiscal year 1978, and $5,000,000,000 per fiscal year for fiscal years 1979, 1980, 1981, and 1982.

The conference agreement provides an authorization for appropriations for five fiscal years. The authorizations for fiscal years 1978 through 1981 are allotted immediately after enactment. A major change in the Act is the provision making the amounts of each authorization subject to appropriations Acts. This provision was adopted so as to comply with the Congressional Budget and Impoundment Control Act of 1974. However, it is recognized that making the authorizations subject to annual appropriations Acts reintroduces the very uncertainty in the level of funding that Congress had attempted to eliminate in the Federal Water Pollution Control Act Amendments of 1972 when it provided for contract authority. Therefore an allotment is no longer a commitment to fund because, although contract authority is still theoretically available, it no longer has any significant impact on the availability of funds.

The Budget Impoundment and Control Act of 1974 anticipated that, in the absence of effective contract authority, the Appropriations Committees would make available advanced appropriations for those programs which require long-term planning commitments for efficient expenditures of funds. The conferees hope and expect the Appropriations Committees will, with the support of the Budget Committees, provide advanced appropriations for fiscal years 1979, 1980, and 1981. Only in this way can States and communities know in advance that adequate funds will be available and proceed to plan for construction of needed wastewater treatment works.

AREAWIDE PLANNING

House bill

Section 10 amends section 208(f)(2) of the Act to provide for 100 percent Federal grants to designated agencies for the first two years' costs of developing and operating a continuing areawide waste treatment management planning process if the first grants are approved by EPA before October 1, 1977. The 2-year period begins on the date the first grant is made.

Grants of up to 75 percent of the costs of developing and operating a continuing areawide waste treatment management process in any one year, are provided for each succeeding one year period to newly designated agencies whose first grants are approved after October 1, 1977, as well as for subsequent grants for each succeeding one year period to agencies which have already utilized their first grant.

Senate amendment

Section 13(a) amends section 208(b) of the Act to provide that any agency designated after 1975 under section 208(a) and a State acting as the planning agency for all portions of the State not otherwise designated shall have a full three years after receipt of the initial grant under section 208(f) to prepare an initial plan.

Section 13(b) amends section 208(f)(2) of the Act to provide that, for the first 2 years of operation of any agency designated prior to October 1, 1978, to conduct an areawide waste treatment management planning process under section 208, the amount of the Federal grant shall be 100 percent of the costs.

Conference substitute

The conference substitute is the same as the Senate amendment except that the date by which the first grant must be approved is set as October 1, 1977, as provided in the House bill.

The conferees note that the authorization for section 208 is unrelated to the litigation in *National Association of Regional Councils* v. *Costle*, No. 76–1970, U.S. Court of Appeals for the D.C. Circuit (decided September 8, 1977). Sums authorized for this section should not in any way be used to meet any order resulting from that case. Any funds appropriated pursuant to this authorization should be used only as set forth in this section.

AREAWIDE WASTE TREATMENT MANAGEMENT

House bill

No comparable provision.

Senate amendment

This section amends section 208(b)(2)(A) of the Act to require that any plan prepared under the areawide waste treatment management process must include an identification of open space and recreation opportunities expected to result from improved water quality, including methods and procedures to assure public access to navigable waters for recreation purposes.

Conference substitute

The conference substitute is the same as the Senate amendment except that the provision relating to public access to navigable waters has been replaced with a requirement that there be consideration of potential use of lands associated with treatment works and increased access to water-based recreation.

IRRIGATION RETURN FLOWS

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute makes the same amendment to section 208(b)(2)(F) as the Senate amendment. It also amends section 502(14) of the Act to remove return flows from irrigated agriculture from the definition of the term "point source". In addition the amendment to section 402 of the Act is revised to prohibit the Administrator from requiring permits for this type of discharge and to prohibit the Administrator from requiring any State to require such a permit.

The purpose of this section is to assure that no permit can be required by EPA for regulation of irrigation return flows. The conferees do not intend, in any way, to restrict the authority of a State to regulate irrigation return flows as a part of an approved State section 402 permit program.

AGRICULTURAL COST SHARING

House bill

No comparable provision.

Senate amendment

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

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

These cost-sharing funds will be made available only to those areas of States which have approved management plans under section 208. The Secretary will give priority to projects in those areas which have critical nonpoint source pollution problems from agricultural runoff. Section 208 management agencies will be required to assure an appropriate level of participation by land owners and operators in the area before funding can become available.

The Secretary is authorized to carry out this cost-sharing program through the State soil conservation districts.

There is authorized to carry out this provision $200,000,000 for fiscal year 1979, and $400,000,000 for fiscal year 1980.

Conference substitute

This provision is essentially the same as the Senate-passed bill except that the Secretary of Agriculture, with the concurrence of the Administrator, and acting through the Soil Conservation Service and such other agencies of the Department as the Secretary may designate, is to establish and administer this program. In addition, agreements to administer the program shall provide for payment by the United States of such administrative costs as the Secretary deems appropriate. The local soil conservation district, where one exists, together with the Secretary of Agriculture, will determine priority of assistance to assure the most critical water quality programs are addressed by the program.

This provision is essentially the same as the Senate-passed bill except that it has been clarified to give the Secretary of Agriculture more flexibility within his department. The funds authorized for agricultural cost-sharing programs are to be included in the request

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for appropriations for agricultural programs and not to be included in the EPA budget. The funds are to be appropriated to the Secretary of Agriculture.

The conferees agree that the function of this cost-sharing program is to reduce nonpoint source pollution through financial assistance for only those soil conservation practices which improve water quality. It is not intended to be a copy or extension of existing soil conservation programs in the Department of Agriculture, and should not finance production-oriented practices except an incidental or indirect result.

GRANT ELIGIBLE CATEGORIES

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute adds two new subsections to section 211 of the Act. The first provides that if population density is used as a test of eligibility of a collector sewer for assistance population density shall only be used for the purpose of evaluating alternatives and in determining the needs for the collection system in relation to ground or surface water quality impact. The second provides that no grant may be made under title II from funds for fiscal years 1978 through 1982 for treatment works for control of pollutant discharges from separate storm sewer systems.

The conference agreement deletes the Senate provision which amends section 211 of existing law relating to major sewer rehabilitation and collector sewer eligibility. This leaves in place existing law. Collector sewer eligibility is thus limited to communities in existence on October 18, 1972, with sufficient existing or planned capacity adequate to treat such collected sewage.

For the purpose of this section, it is recognized that a community qualifying for Federal grant assistance to construct a collector sewer system may be a geographic or jurisdictional area that is less than the municipality which is applying for the treatment works grant.

The conferees added an amendment which limits the use of population density as a test for determining the grant eligibility of a collector sewer to evaluation of alternatives and determination of the needs for such system in relation to ground or surface water quality impact. The Agency has issued guidance on the use of density and other factors in cost effectiveness analysis. The conferees direct the Agency to review this guidance to assure that it meets the test of this new provision.

REQUIREMENTS FOR AMERICAN MATERIALS

House bill

The new section 216 created by section 12 would extend the application of the Buy American Act to any case where Federal construction grant funds for municipal treatment works are used. However, where the Administrator of EPA determines, as in the basic Buy American Act, that enforcement of the Buy American provision would not be in the public interest or that costs would be unreasonable, the provision shall not apply.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill except that this provision is not to apply in any case where the Administrator determines, based upon those factors he deems relevant, including available agency resources, that enforcement is inconsistent with the public interest (including multilateral government procurement agreements), the cost to be unreasonable, or the articles are not reasonably available in commercial quantities of satisfactory quality.

DETERMINATION OF PRIORITY

House bill

Section 12 adds a new section 215 to the Act which gives each State the ability to determine the priority to be given each category of projects for construction of publicly owned treatment works within each State. The categories of projects for construction of publicly owned treatment works include: secondary treatment, treatment more stringent than secondary treatment as is necessary to meet water quality standards, correction of infiltration/inflow, major sewer system rehabilitation, new collector sewers and appurtenances, new interceptor sewers and appurtenances, and correction of combined sewer overflows.

Senate amendment

Section 8 amends section 106(f) to provide that in the approval of priority lists or determinations for priority under 106(f) or section 204(a)(3) or section 303(e) for grants for design or construction of publicly owned treatment works the Administrator shall give highest priority to treatment works necessary to comply with sections 301(b) or 201 (b), (d) and (g)(2)(A). Included are facilities providing for treatment, reclamation or recycling of wastewater and for beneficial use or disposal of residual sludges.

Conference substitute

The conference substitute is the same as the House bill except that if the Administrator after a public hearing determines a project will not result in compliance with the enforceable requirements of the Act the project shall be removed from the priority list and the State shall submit a revised list. At least 25 percent of funds allocated to a State in any fiscal year for construction under this Act shall be obligated for eligible types of projects if they are on the State's priority list for that year and are otherwise eligible for funding for that year.

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COST-EFFECTIVENESS GUIDELINES

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment. This section is to have no effect on collector sewers.

CONTRACT AUTHORITY

House bill

Section 11 amends section 208(f)(3) of the Act to make the payment of the Federal share of the cost of developing and operating a waste treatment management planning process approved by the Administrator subject to sufficient amounts being provided in appropriation Acts.

Senate amendment

Same as the House bill.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment.

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment.

For those communities which can show that existing deep marine discharge requires less than secondary treatment, a case-by-case review

waiver is provided. Such a waiver would be based on stringent criteria discussed below. The waiver would be reviewed every 5 years to assure continued compliance with these conditions.

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

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

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

The third condition is that the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota to the extent practicable.

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

The fifth condition is that all applicable pretreatment requirements will be enforced.

The sixth condition is that 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.

The seventh condition is that there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

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

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

Depth is a key factor in determining the amount of circulation in waters of the territorial sea or contiguous zone. Circulation in turn affects the degree to which waste water discharges to these waters are rapidly dispersed. In some instances, depth of water in the territorial seas or contiguous zone in excess of 200 feet is necessary to achieve sufficiently rapid dispersion (i.e., 45 seconds) of waste water and waste water constituents. In some instances, depth of 200 feet is insufficient to provide adequate dispersion. Poor net flushing (i.e. stagnation) of a deep basin may cause undesirable vertical cycling of discharges.

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

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

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

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

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

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

MUNICIPAL TIME EXTENSIONS

House bill

Section 13 amends section 301 of the Act by adding a new subsection (g) which authorizes the Administrator to modify on a case by case basis, the time for achieving the July 1, 1977, treatment requirements imposed by section 301(b)(1) of the Act for both publicly-owned waste treatment facilities and other point sources.

In the case of publicly-owned treatment works, subsection (g) authorizes the Administrator to grant time extensions up to July 1, 1982, or if innovative technology is to be utilized, up to July 1, 1983.

New subsection (g)(3) provides that no time modifications shall be granted under this subsection unless there is an approved schedule of compliance. Failure to meet the approved schedule of compliance would be a violation of the requirements of section 301 and would be

subject to enforcement under section 309 in the same manner as another violation of the requirements of section 301.

Section 13 adds a new subsection (g) (4) to section 301 of the Act. This new subsection addresses the question of point sources which introduce their effluents into publicly-owned treatment works. It provides that any point source which has a contract enforceable against itself to participate in a publicly-owned treatment works may discharge its effluent into a publicly-owned treatment works and shall not be subject to the best practicable control technical requirements of subsection 301(b) (1) (A) or the more stringent requirements necessary to meet the necessary water quality standards required by subsection 301 (b) (1) (C) until the date which the treatment works receiving the effluent is itself required to meet subsections 301(b) (1) (B) and (C), secondary treatment or water quality standards, respectively. It is necessary that the enforceable contract must be in effect not later than the sixtieth day after the date the time modification is granted to the publicly-owned treatment works.

Section 13 adds a new section 301(h) to the Act which provides that industries which received grants under section 105(c) of the Act to develop new technology to treat industrial waste, and were unsuccessful, will receive an additional period of time to comply with section 301(b) (1) of the Act.

Senate amendment

Section 31 amends Section 301 of the Act to permit a case-by-case modification of the July 1, 1977, deadline for publicly owned treatment works up to July 1, 1983, where construction cannot be completed or where Federal funds have not been made available. Such modification is available to dischargers into the system if such dischargers have been found to have acted in good faith.

This amendment allows the Federal or State approved permitting agency to extend the July 1, 1977, deadline for the achievement of secondary treatment by sewage treatment plants on a case-by-case basis.

New section 301(f) (1) allows the permitting agency, in its discretion, to extend the statutory deadline for secondary treatment for sewage treatment plants, provided that either (1) major new construction is required and cannot reasonably be completed by the statutory deadline, or (2) necessary Federal financial assistance under title II of the Act has not been available.

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

Paragraph (2) of section 301(f) allows the permitting authority, in its discretion, to extend the date of compliance with the July 1, 1977, deadline for nonmunicipal point sources which intend to discharge their waste to a yet unfinished sewage treatment plant.

Several criteria must be met before the nonmunicipal point source can be considered for an extension. First, the point source's permit must evidence a decision to tie-in to the municipal treatment works.

Second, the sewage treatment plant which is the intended recipient of waste from the nonmunicipal point source, must either have obtained an extension pursuant to the first paragraph of this section or require substantial construction in order to process the waste. This section allows the industrial point source to obtain an extension of its final effluent limitations pending the completion of this major construction by a sewage treatment plant, provided that the sewage treatment plant has been fully planned and can demonstrate to the satisfaction of the permitting authority that it can complete construction by July 1, 1983.

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

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

In order to assist the permitting agency in protecting the public interest, the agency is instructed to consider the good faith of the industrial discharger in deciding whether or not to grant an extension of the 1977 deadline.

If all the above conditions are met, the permitting agency may extend the date of compliance with final effluent limitations either to correspond with any extension granted to the receiving treatment work. or to the earliest possible date that sewage plant construction permits the tie-in (in no event later than July 1, 1983). The permit allowing such an extension shall not allow any extension of the permittee's obligation to comply with pretreatment standards and toxic effluent limitations.

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

Section 41 amends section 309 of the Act to provide two new enforcement options for violations of the 1977 best practicable technology for industrial dischargers. The first option authorizes the issuance of an enforcement order requiring a "reasonable" time for compliance, reserving the 30-day requirement for violation of operation and maintenance requirements and interim compliance schedules. The second option authorizes an extension of the 1977 deadline up to January 1, 1979, where the Administrator finds that the discharger acted in good faith, that a serious commitment to achieve compliance had been made, that compliance will occur no later than January 1,

1979, that the extension will not impose additional controls on other sources, that an application for a permit was filed before December 31, 1974, and that the necessary abatement facilities are under construction.

Conference substitute

The conference substitute is based upon the Senate amendment with the following modifications:

(1) The requirement that "major" new construction be required has been revised to require that construction be required.

(2) The requirement that construction cannot be "reasonably" completed has been revised to require that construction cannot be completed.

(3) It has been made clear that the United States must have failed to make financial assistance available in time.

(4) The owner or operator of a treatment works is given 180 days to file a request for an extension.

(5) Where an industrial point source will not achieve the requirements and (i) if a permit issued before July 1, 1977, to that source is based upon a discharge into a publicly owned treatment works or (ii) if such industrial point source had before July 1, 1977, a contract enforceable against it to discharge into a publicly owned treatment works or (iii) if either an application made before July 1, 1977, for a construction grant for a publicly owned treatment works or engineering or architectural plans or work drawings made before that date for such a works show that such industrial point source was to discharge into the publicly owned treatment works and that the publicly owned treatment works is presently unable to accept the industrial point source without construction and, in the case of a discharge to an existing publicly owned treatment works, that treatment works has an extension under paragraph (1) of the subsection, then the owner or operator of the industrial point source may request the Administrator (or the State) to extend the time for compliance. This request must be filed within 180 days after the date of enactment of the subsection or the filing of a request by an appropriate publicly owned works under paragraph (1), whichever is later. The remaining provisions of the Senate amendment relating to the granting of such extension or modification are unchanged in the conference substitute.

This provision contemplates for those industries introducing their discharges into municipal systems, that such industries complete their pretreatment requirements by a date consistent with the pretreatment provisions of this Act which would have to be met if the municipal systems were available. For example, if an industry is planning on participating in a municipal system which will not be available until January 1983, that industry would still have to install and operate pretreatment facilities within the time specified for compliance at the time the applicable pretreatment standard was promulgated and in no event later than 3 years from the date of said promulgation. Thus, if the pretreatment regulations are promulgated March 1, 1979 and require compliance within two years, that industry would be required to comply by March 1, 1981.

There will be no time extension for industries which intend to be tied into municipal systems the treatment works for which will not be completed by July 1, 1983.

PROCEDURE FOR MODIFICATIONS

House bill

No comparable provision.

Senate amendment

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

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

In the case of a modification of the best available technology requirement, the Administrator may condition a stay on the filing of a bond or other appropriate security, such as a line of credit, which will assure timely compliance with the requirements for which a modification is sought.

Conference substitute

The conference substitute is essentially the same as the Senate amendment except that the procedure for modification of best available technology only applies to nonconventional pollutants. An application for a modification is not to stay requirements of the Act unless in the judgment of the Administrator the stay or 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 and there is a substantial likelihood the applicant will succeed on the merits.

INNOVATIVE TECHNOLOGY

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment except the deadline for compliance may not be later than July 1, 1987.

Prior to any State granting a waiver for innovative technology, the State must consult with the Administrator. The purpose of the consultation is to assure that a State only approve innovative systems which have the potential for industrywide application.

INFORMATION AND GUIDELINES

House bill

No comparable provision.

Senate amendment

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

Conference substitute

Same as the Senate amendment except that references to modification of best available technology for industry have been deleted. A further discussion of this matter is found under the center heading "Toxic Effluent Standards and Modifications of Best Available Technology Requirement".

BEST MANAGEMENT PRACTICES FOR INDUSTRY

House bill

No comparable provision.

Senate amendment

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

The amendment to section 304, adding a new subsection (e), authorizes the Administrator to publish regulations for ancillary industrial activities of point source dischargers which contribute pollutants designated as toxic under section 307. For these ancillary activities, the regulations will specify treatment requirements, operating procedures, and other management practices by classes and categories of point source dischargers. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable, being considered as requirements of section 301, 302, 307, or 403.

Conference substitute

The conference substitute is essentially the same as the Senate amendment and applies to toxic and hazardous pollutants under sections 307(a)(1) and 311. Once promulgated, the requirements, procedures, and practices established in the regulations must be included in section 402 permits where applicable being also considered as a requirement of section 306.

The conferees have modified the Senate provision to assure that this authority is not used by the Administrator to become involved in actual plant process design and operating decisions. The intent is to control runoff of toxic and hazardous materials from industrial sites resulting from poor housekeeping procedures. Such control should be applied as a part of the 402 permit process.

It may not be necessary to use this authority for every substance designated under section 311. In applying his discretion under this subsection the Administrator should consider whether regulation of plant site runoff, materials storage, waste disposal, or other activities covered by this amendment is appropriate to assure that any particular substance listed under section 311 is not released into the water.

INTERAGENCY AGREEMENTS

House bill

No comparable provision.

Senate amendment

This section amends section 304 of the Act to authorize $100 million for each of the fiscal years 1979–83 for interagency agreements to encourage the use of expertise in other Federal agencies.

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

This amendment would reauthorize funds to implement such agreements, transfer funds to the above departments, and would broaden this authority to include Federal agencies other than those above.

Conference substitute

The conference substitute is the same as the Senate amendment.

STATE REPORTS

House bill

Section 14 amends Section 305 of the Act to require the State water quality inventory report to be submitted biennially beginning April 1, 1976 in lieu of the present requirement for annual reports.

Senate amendment

Section 37 is the same as the House bill.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment.

TOXIC EFFLUENT STANDARDS AND MODIFICATION OF BEST AVAILABLE TECHNOLOGY REQUIREMENT

House bill

Section 15 amends section 307 of the Act to delete the existing requirement that a public hearing be held within 30 days of the date of notice, thus permitting the Administrator to hold a public hearing on a proposed toxic standard within six months of its publication. It would also require the Administrator to insure compliance with final toxic effluent standards no later than three years from the date the standard takes effect where he determines it would be technologically infeasible for a category of resources to comply with such standards within a one-year period.

The House bill has no provision for the modification of the best available technology requirement.

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Senate amendment

Section 38 amends section 307 to revise the procedures for establishing and publishing a toxic pollutant and extend the period for compliance from 1 to up to 3 years as long as there is no significant risk to public health, public water supplies, or the environment.

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

The first change would replace the present requirements of formal "trial-type" rulemaking hearings on the record with a less formal rulemaking. This would involve a procedure similar to that which is presently required in connection with the establishment of pretreatment standards under section 307(b) of the Act.

The second change would allow for extended compliance time under certain circumstances. Installation of pollution abatement technology can often require lead times exceeding 1 year. This provision would allow the Administrator to extend compliance in those instances if by doing so he would not subject public health or the environment to unreasonable risks.

The bill would further amend section 307(a) so as to extend the maximum rulemaking period from 6 months to 270 days.

The Senate amendment also amends section 301 of the Act to provide for a modification of the best available technology requirement for any conventional pollutant as long as the modified requirement is at least best practicable technology, will not require controls on any other source, will not interfere with the attainment or maintenance of that water quality which assures the protection of public water supplies and the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife, and allows recreational activities, in and on the water, and represents a reasonable cost for level of reduction achieved.

Conference substitute

Section 42 of the conference substitute amends section 301(b) of the Act to require that all toxic pollutants actually listed in table 1 of House Public Works and Transportation Committee Print Numbered 95–30 must comply with effluent limitations which require the application of best available technology no later than July 1, 1984. For all other toxic pollutants compliance must be achieved no later than 3 years after the limitation is established. For all pollutants other than toxic pollutants or conventional pollutants, compliance with effluent limitations requiring best available technology must be achieved not later than 3 years after the limitation is established or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987. The earliest date for which compliance is required is the same as the date for compliance with the requirements of sections 301(b)(2) (C) and (E), that is, not later than July 1, 1984. In the case of conventional pollutants identified pursuant to section 304(a)(4) effluent limitations shall be achieved no later than July 1, 1984 which require application of best conventional pollutant control technology determined in accordance with regulations issued under section 304(b)(4). Section 43 of the conference substitute amends section 301 by adding a new subsection (g) which authorizes the Administrator (with concurrence of the State) to modify the requirements of subsec-

tion (b)(2)(A) of section 301 with respect to any pollutant (except toxic pollutants, conventional pollutants and heat) upon a showing satisfactory to the Administrator that the modified requirements will result at least in compliance with section 301(b)(1) (A) or (C), whichever is applicable, that the modified requirements will not result in additional requirements on any other source and will not interfere with attaining or maintaining water quality which assures protection of public water supplies and protection and propagation of a balanced population of shell fish, fish, and wildlife, and allow recreational activities, in and on the water and 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. If an owner or operator of a point source applies for a modification under new subsection (g) with respect to the discharge of any pollutant, the owner or operator shall be eligible to apply for modification under section 301(c) with respect to that pollutant only during the same time period as the owner or operator is eligible to apply for a modification under subsection (g).

Section 48 of the conference substitute amends section 304(a) by adding at the end thereof a new paragraph (4) which requires the Administrator to publish and revise as appropriate information identifying conventional pollutants, including, but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. Paragraph (5)(A) requires the Administrator to develop and publish information on 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. Paragraph (5)(B) requires the Administrator to develop and publish information on factors necessary for the protection of public water supplies and the protection and propagation of a balanced indigeneous population of shellfish, fish, and wildlife and to allow recreational activities, in and on the water. Paragraph (6) requires the Administrator, for purposes of section 301(h), to publish and revise information identifying each water quality standard in effect under the Act or State law, the specific pollutants associated with such standard, and the particular water to which the standard applies. Section 48 of the conference substitute also amends section 304(b) of the Act to require the Administrator, by regulation, to identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through application of best conventional pollutant control technology for classes and categories of point sources (other than publicly owned treatment works) and to 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) to be applicable to any point source within the category or class. These factors shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluent 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. Section 53 of the conference substitute provides the list of the toxic pollutants or combinations thereof subject to the Act shall be those listed in table 1 of the House Public Works and Transportation Committee Print Numbered 95–30. The Administrator shall publish this list within 30 days after the date of enactment. The Administrator may revise the list and add to or remove from the list any pollutant. It is intended that the test for adding and for removing are the same. It is not intended to be more difficult either to remove pollutants from, or to add pollutants to, the list. A determination of the Administrator to add to or remove a pollutant from the list is final unless it is based on arbitrary and capricious action. Every toxic pollutant so listed shall be subject to effluent limitations resulting from application of best available technology economically achievable for the applicable class or category of point sources. The Administrator shall publish a proposed effluent standard (including prohibition) applicable to a class or category of point sources to which a best available technology effluent limitation applies only if the standard imposes more stringent requirements. A procedure is established for promulgating such a standard. Effluent limitations are required to be established for every toxic pollutant referred to in table 1 of Committee Print Numbered 95–30 as soon as practicable but no later than July 1, 1980. Effluent limitations or standards shall be established for every other toxic pollutant listed as soon as practicable after it is listed. Every effluent standard is to be reviewed and, if appropriate, revised at least once every 3 years. An effluent standard must take effect within 1 year after the date of its promulgation unless the Administrator determines compliance to be technologically infeasible for a category of sources, in which case the effective date for that category is the earliest date compliance can be feasibly attained, but not more than 3 years after the date of promulgation. The Administrator may not modify any requirement of section 301 if it applies to any specific pollutant on the toxic pollutant list under section 307(a)(1).

Section 73 of the conference substitute requires the Administrator to review within 90 days every best available technology guideline heretofore promulgated which is final or interim final (other than those listed in table 2 of House Public Works and Transportation Committee Print Numbered 95–30), and which apply to conventional pollutants identified under section 304(a)(4). Those guidelines applicable to industrial categories listed in table 2 must be reviewed before July 1, 1980. After the review the Administrator is authorized to make any necessary adjustments in the guidelines to carry out section 304(b)(4) of the Act. The results of the review are to be published including any determination to adjust, or not to adjust, any guideline. This determination is final unless, on judicial review, the court decides the Administrator either did not comply with this section 73 or his determination was based on arbitrary and capricious action applying section 304(b)(4) to the guideline, in which case the Administrator shall make a further review and redetermination of any such guideline.

The conferees recognize that best practicable technology has proven more stringent in many instances than anticipated. Consequently the application of effluent limits based on those regulations will result in a larger measure of progress toward the achievement of the goals of the Act.

The cost test for conventional pollutants is a new test. It is expected to result in a determination of reasonableness which could be somewhat more than best practicable technology or could be somewhat less than best available technology for other than conventional pollutants. The result of the cost test could be a 1984 requirement which is no more than that which would result from best practicable technology but also could result in effluent reductions equal to that required in application of best available technology.

The conferees also recognize that in some instances, growth alone, despite the requirements of new source performance standards, may increase the discharge of conventional pollutants to such an extent as to erode some of the progress achieved in compliance with best practicable technology and permit requirements. Further progress toward the reduction of discharges of conventional pollutants through advancement of control technology should continue to be encouraged.

The conferees recognize that the list in table 1 of the Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives includes pollutants and families of pollutants which have varying levels of toxicity. As was set forth in the consent decree in the case *NRDC* v. *Train*, the Adlutants from the list. The Administrator is also authorized by this ministrator is specifically authorized by this section to delete polsection to add pollutants to this list. Because of limatations on agency resources, the Administrator is urged to utilize this authority whenever the Administrator determines appropriate. It is recognized that there are specific chemical compounds within these families of pollutants for which the Administrator may not set a specific effluent limitation or standard.

The Administrator, in his discretion, may establish effluent standards for toxic pollutants under section 307(a). If the Administrator establishes an effluent standard for a toxic pollutant which is added to the list under section 307(a)(1) after the date of enactment, then the Administrator may choose not to establish effluent limitations resulting from the application of the best available technology economically achievable for such toxic pollutant.

If the owner or operator of a point source who requests a modification under section 301(g) also files for a modification under section 301(c), within the same time period, and such section 301(c) modification is not granted, nothing in this section shall preclude such owner or operator from reapplying for a modification under section 301(c) if as a result of regulations under this Act subsequent to the initial request for modification there is a substantial change in the economic circumstances of the applicant which could not have been anticipated at the time of the initial request.

These amendments do not in any way change statutory requirements for the control of the discharge of heat or affect any pending administrative or judicial proceedings under provisions of this Act addressing heat, including but not limited to, sections 301, 303, 304, 306, and 316.

PRETREATMENT

House bill

No comparable provision.

Senate amendment

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

The provision amends sections 307(b) and 304(b) to make contamination of sludge one of the criteria for pretreatment standards. For pollutants which require pretreatment standards, the amendments require, at a minimum, the application of best available technology in national pretreatment standards.

The amendments regarding pretreatment also stipulate that local pretreatment programs must be required as a condition of any grant made under title II of the Act as well as any permit issued to a publicly owned treatment works under section 402 of the Act.

The bill amends section 304(f) to make the same clarification regarding sludge contamination and the appropriateness of best available technology that are incorporated into section 307.

Section 402(b)(8) is amended to insure the identification of pollutants that are introduced into municipal systems, to provide for the development of local pretreatment programs and to make the requirements of local pretreatment programs enforceable under sections 309 and 505 of this Act. Section 309 also is amended to insure that anyone who discharges a pollutant to which section 307(b) standards are applicable must notify the proper authorities in a timely manner, and that other pertinent information called for under section 402(b)(8) is provided. A penalty is provided for failure to provide such notice.

In addition, the amendments provide that any pretreatment requirements established or adopted through such local programs shall become an enforceable permit requirement. Such requirements can be enforced directly against the industrial source using the authorities of section 309 or 505 of the Act.

Conference substitute

Section 54 of the conference substitute amends section 307(b)(1) of the Act to provide that if a toxic pollutant is introduced into a publicly owned treatment works and the treatment by those works removes all or any part of that toxic pollutant and the discharge from that works is not in violation of the effluent limitation or standard which would apply to that toxic pollutant if it were discharged by such source other than a publicly owned treatment works and does not prevent sludge use or disposal by such works in accordance with section 405 of the Act, then the pretreatment required by sources actually discharging that toxic pollutant into that publicly owned treatment works may be revised by the owner or operator of those works to reflect the removal of that toxic pollutant by that works. In addition section 309 of the Act is amended by adding a new subsection (f) to provide that whenever the Administrator finds that a owner or operator of any source is introducing a pollutant into a treatment works in violation of subsection (d) of section 307, he 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 the Act. Notice of commencement of any such action shall be given to the State. Nothing in new subsection (f) shall be construed to limit or prohibit any other authority the Administrator may have under the Act. Section 402(b)(8) of the Act is amended to provide that a State program must insure 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 the Act into a publicly owned treatment works and a program to assure compliance with such pretreatment standards by each such source. State permit programs heretofore approved which require modification to conform to this requirement are not to be required to be modified for one year unless in order to make the required modification a State must amend or enact a law in which case the modification shall not be required by the State for two years. Section 405 of the Act is amended to require the Administrator to develop and publish regulations providing guidelines for the disposal of sludge and the utilization of sludge for various purposes. These regulations shall identify uses (including disposal) specify factors to be taken into account in determining measures and practices applicable to each such use or disposal (including information on costs) and identify concentration of pollutants which interfere with each such use or disposal. The determination of the manner of disposal or use of sludge is a local determination except that if a guideline has been established for a use it is thereafter unlawful for the owner or operator of a publicly owned treatment works to dispose of sludge from such works for that use except in accordance with the guideline.

Under the amendment to section 307(b) the Administrator would establish national pretreatment standards for toxic pollutants based on the best available technology economically achievable, or any more stringent effluent standards under section 307(a). Then in applying these pretreatment standards through its pretreatment program, the owner or operator of the municipal treatment works could modify the requirements applicable to individual classes of sources introducing that pollutant into the treatment works to reflect the degree of reduction of that pollutant achieved by the treatment works. The combination of pretreatment and treatment by the municipal treatment works shall achieve at least that level of treatment which would be required if the industrial source were making a direct discharge. Any effluent reduction attained by the treatment works and used to justify a modi-

fication of pretreatment requirements must be a permit condition enforceable against the owner or operator of the treatment work.

In promulgating national pretreatment standards the Administrator shall include a provision recognizing the option of the owner or operator to modify the requirements to reflect the degree of reduction achieved by the treatment works. An adequate pretreatment program under section 402(b)(8) may include municipal ordinances or regulations specifying pretreatment requirements and incorporated into the treatment works permit by reference, or pretreatment requirements applicable to specific sources set forth as conditions on the permit.

In addition to the express criteria of section 307(b), the Administrator in establishing pretreatment standards shall consider the guidelines for sludge disposal or use established under section 405.

It is expected that the Administrator will work with the Economic Development Administration to see that direct EPA loans as well as loan and lease guarantees are provided to eligible plants to offset the costs of installing pretreatment equipment.

Also, section 8 of PL 92–500, provides for loans from the Small Business Administration to small businesses for the installation of pollution control equipment. This section has never been fully implemented. It is expected that these loans will be made available to assist in the installation of pretreatment processes to industries such as metal finishers.

1977 DEADLINES

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute retains the first option authorized by the Senate amendment and retains the second option revised to ensure that a person, other than a violator, who is otherwise not in compliance with the time requirements of the Act, may have an extension of up to April 1, 1979.

In addition, the conference substitute establishes an additional option which provides that if the Administrator finds (1) that a person is in violation of section 301(b)(1)(A) or (C) of the Act, (2) that the person cannot meet the requirements for a time extension under section 301(i)(2) and (3) the appropriate means of compliance by the

person is to discharge into a publicly owned treatment works, then upon the request of the person, the Administrator may issue a compliance order for the earliest practicable date, but not later than July 1, 1983, for the person to discharge into a publicly owned treatment works if that works concurs with the order.

For those municipal sources which are unable to meet this statutory deadline due to their unwillingness to take appropriate actions and spend necessary amounts of money at the earliest possible time, no extension would be granted and enforcement actions would be undertaken under section 309.

In determining whether or not to grant the extension, the permitting agency must consider whether the delays in construction were due to EPA's inability to make available appropriate construction grant monies promptly (as described in section 301(i) of the Act), or whether the fault lies with the municipality's unwillingness to move as fast as possible with all available resources toward the achievement of the requirements of secondary treatment.

The conferees modified the Senate amendment to provide recognition of the fact that some sources may fail to comply with the deadlines of the Act for reasons beyond their control such that it is not appropriate to label them as violators. Under the conference modification, these kinds of sources may receive extensions without bearing the stigma of violation of law. It is the intent of the conferees that under the provision which allows the Administrator to establish a reasonable time in which to comply with an enforcement order, existing administrative and court orders which provide for attainment dates beyond April 1, 1979, continue in effect unless modified under these amendments. Therefore, the existing enforcement policy of the EPA is continued. The conferees also intend that during such time of compliance, the Administrator may require a point source to meet any interim levels of treatment as he deems appropriate under the circumstances.

In any case where an industry planned on, negotiated with, and conducted joint engineering studies with a municipality which planned to construct a publicly-owned treatment works and subsequently decided not to proceed with such a works such industry would be eligible for an extension of its 1977 best practicable technology requirement for a period of time not to exceed that which elapsed during the negotiations with the municipality and the engineering studies.

A number of industries received grants under section 105(c) of the Act to assist them in developing innovative technologies for treating their wastes. A small number of these industries were unable to perfect these innovative technologies, through no fault of their own, and were thus required to install the necessary conventional facilities to meet the requirements of section 301(b)(1) by July 1, 1977.

It is intended that industries which received grants under section 105(c) of the Act to develop new technology to treat industrial waste, and were unsuccessful, will be eligible to receive additional time to comply with section 301(b)(1) of the Act. An example of such an industry that has come to the attention of the Managers is the Holliston Mills in Kingsport, Tennessee which would require one additional year.

A person who wishes an extension must have made a serious commitment of the necessary resources to achieve compliance as soon as pos-

sible after July 1, 1977, but no later than April 1, 1979. Here the Administrator must determine whether purchase orders were executed, land cleared, and engineers and construction workers available, or other steps taken to insure that the job can be completed by the new extended date.

TECHNICAL AND CONFORMING AMENDMENTS

House bill

No comparable provision.

Senate amendment

This section amends section 309 of the Act to insure the enforceability of permits issued under section 318 (aquaculture) and section 405 (sewage sludge).

Conference substitute

Except for the elimination of one technical amendment which was unnecessary, the conference substitute is the same as the Senate amendment.

MITIGATION COSTS

House bill

No comparable provision.

Senate amendment

This section amends section 311 of the Act to permit the expenditure of funds from the contingency fund for the purpose of mitigating the effects of a spill of a nonremovable hazardous substance and the recovery of such expenditures from the discharger.

Conference substitute

The conference substitute is the same as the Senate amendment.

The amendments provide that under section 311 the Administrator may act to mitigate the threat to public health or welfare caused by the discharge of a hazardous substance determined not to be removable. The costs of this mitigation effort are deemed costs incurred under subsection (c).

There are clear limits on the costs which the Administrator may include within subsection (c) costs. For example, the long term solution to many spills may be the construction of major capital structures, including advanced treatment systems or extension dikes. While such major construction may well mitigate the danger to public health or welfare, they are not the type of actions which the managers intend to be included within recoverable mitigation costs. Rather, this provision was intended to allow recovery for costs associated with immediate responses previously demonstrated to be effective. Mitigation efforts include, but are not limited to, activities such as containment measures, measures required to warn and protect the public of acute danger, activities necessary to provide and monitor the quality of temporary drinking water sources, monitoring for spread of the pollutant, biomonitoring to determine extent of the contamination, physical measures to identify and contain substances contaminated by the discharge, providing navigational cautions while response to the problem is underway, efforts to raise sunken vessels which are the source

of the discharge, and implementation of emergency treatment facilities. The costs for such measures, efforts and activities are recoverable. Mitigation also includes efforts necessary to locate the source of the discharge and identify properties of the pollutants released. The response must follow within a reasonable period of time after discovery of the discharge of the hazardous substance or risk of such discharge.

However, it is recognized that it may be appropriate for the Administrator to take action beyond those for which recovery would be allowed for mitigation.

OIL SPILL LIABILITY

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute makes a number of amendments to section 311 of the Act relating to liability for discharging oil or hazardous substances. One series of amendments has for their purpose the extension of the section to discharges of oil or hazardous substances 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 Fishery Conservation and Management Act of 1976). The second series of amendments is designed to insure that only persons who are owners, operators, or in charge of vessels who are otherwise subject to the jurisdiction of the United States will be liable for the penalties provided in the section if they spill outside the waters of the contiguous zone. The next series of amendments is designed to make a distinction between inland oil barges and other vessels with respect to the amount of liability. In the case of inland oil barges, liability would be $125 per gross ton or $125,000, whichever is greater. In the case of any other vessel, liability would be $150 per gross ton unless the vessel carries oil or hazardous substances as cargo in which case it is $250,000, whichever amount is the greater. The limits in existing law for all vessels are $100 per gross ton or $14,000,000, whichever is the lesser. In the case of any class or category of onshore and offshore facilities, the President is authorized to provide a maximum limit of liability of less than $50,000,000, but in no case less than $8,000,000.

Evidence of financial responsibility for the increased liability is not required of any vessel before October 1, 1978. In the case of onshore and offshore facilities, the maximum amount is increased from $8,000,000 to $50,000,000. Another amendment exempts the owner or operator of an inland oil barge from responsibility to the United States for actual removal costs of oil or a hazardous substance discharged from that barge which is caused by an act or omission of a third party. All other amendments to section 311 contained in the conference substitute are as contained in the Senate amendment.

New subsection (f)(4) and (5) make governmental expenses in connection with damage to or destruction of natural resources a cost of removal which can be recovered from the owner or operator of the discharge source under section 311. For those resources which can be restored or rehabilitated, the measure of liability is the reasonable costs actually incurred by Federal or State authorities in replacing the resources or otherwise mitigating the damage. Where the damaged or destroyed resource is irreplaceable (as an endangered species or an entire fishery), the measure of liability is the reasonable cost of acquiring resources to offset the loss.

The Senate conferees are committed to consideration in this Congress of pending legislation authorizing creation of an oil spill superfund. Legislation to create such a fund has passed the House (H.R. 6803) and has been referred to the Senate Environment and Public Works Committee along with a similar bill reported from the Senate Commerce, Science and Transportation Committee (S. 2083).

These amendments to section 311 will provide interim assurance that adequate funds will be available to clean up most oil spills and will provide a basis against which the Senate Committee can consider the superfund legislation.

The conferees expect that matters raised in this section will be further reviewed in conjunction with consideration of the superfund legislation and of any international agreements on pollution beyond the territorial seas.

MARINE SANITATION DEVICES

House bill

No comparable provision.

Senate amendment

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

Conference substitute

This is the same as the Senate amendment with the following changes:

(1) The application of this provision is confined to the Great Lakes.

(2) Commercial vessels are defined as those used in the business of transporting property for compensation or hire or transporting property in the business of the owner, lessee, or operator.

(3) Graywater is defined to mean galley, bath, or shower water.

(4) Upon application by a State the Administrator shall, by regulation, establish a drinking water intake zone in any waters in that State and prohibit discharge of sewage from vessels within the zone. The conferees intend that the Administrator define the area to which the prohibition applies in his promulgation of such a prohibition.

In implementing section 304(f)(4)(B), the Administrator is cautioned to use discretion in establishing drinking water intake zones. This new subparagraph is intended to protect drinking water and not to result in far reaching discharge prohibitions unnecessary to protect drinking water.

A technology for meeting the equivalent of secondary treatment as defined under section 304(d) of this Act for vessels is readily available. The U.S. Coast Guard has certificated Type II flow through systems. In one system the treatment tank "digests" sewage material in a network of closely-positioned vertical columns of fiber. Sewage is retained by the fibers, and is reduced to liquid effluent and CO_2 through a process of biodegradation, digestion and attrition.

FEDERAL FACILITY COMPLIANCE

House bill

No comparable provision.

Senate amendment

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

This section also amends section 404 to insure that the dredge and fill activities of any Federal agency are carried out in compliance with State, local, or interstate substantive or procedural requirements.

Conference substitute

The conference substitute is essentially the same as the Senate amendment revised to conform with a comparable provision in the Clean Air Act and with the additional requirement that any action or other judicial proceeding to which this provision applies may be removed by the Federal department, agency, instrumentality, officer, agent, or employee to the appropriate district court of the United States. In addition the President may, upon a determination that the paramount interest of the United States is to do so, issue regulations exempting from compliance with this section any weaponry equipment, aircraft, vessels, vehicles, or other classes or categories of property, and access to that property, owned or operated by the Armed Forces of the United States or the national guard of a State which are uniquely military in nature. The amendment to section 404 is revised to limit it to State and interstate requirements and to provide that this is not to be construed as affecting or impairing the authority of the Secretary of the Army, acting through the Chief of Engineers, to maintain navigation.

It is anticipated that nothing in this section will prevent any action or other proceeding to which this section applies from being removed by the appropriate department, agency, instrumentality, officer, agent,

or employee of the United States to the district court of the United States for the district and division embracing the place where the action or other proceeding is pending.

CLEAN LAKES

House bill

No comparable provision.

Senate amendment

This section amends section 314 of the Act by requiring the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biennially information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is amended in another provision to authorize $150 million per fiscal year for fiscal years 1978, 1979, and 1980 for the clean lakes program.

Conference substitute

The conference substitute is the same as the Senate amendment except that the authorization is $60,000,000 per fiscal year.

The Clean Lakes Program has been amended to provide additional funding authority and to require the Environmental Protection Agency to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biennially information to the States on the methods and procedures to restore and enhance freshwater lakes.

When the program was first authorized, it was intended that EPA would aggressively work with the States in developing and implementing lake pollution control, including financial assistance. In fact, there has been almost no program implementation by EPA. It is expected that EPA will request full funding for the Clean Lakes Program and initiate an active implementation of this program, including lake identification and classification, and development of methods and procedures to restore lake quality. It is further intended that special attention be given to restoring lakes which offer the potential for high utility as recreation areas.

AQUACULTURE

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment except that the requirement of existing law that regulations be issued by the Administrator not later than January 1, 1974, to carry out this provision has been deleted.

NONCOMPLIANCE FEE

House bill

No comparable provision.

Senate amendment

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

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

This estimated economic value would be translated into an equivalent monthly or quarterly fee that would be payable to the Administrator or the State. When the discharger has come into compliance and the actual costs are known, the fee would be recalculated and any excess amount returned to the discharger. Where sufficient fees were not paid, additional amounts would be collected. This fee is automatic. It is not to be used for long administrative proceedings. Judicial appeals on the amount of the fee collected shall not be allowed to stay collection of the fee. Errors in the determination of the fee are to be corrected using the recalculation procedure that will come into effect following the dischargers return to compliance. Good faith or bad faith should not enter into the calculation of noncompliance fees. Whenever a source is out of compliance after July 1, 1979, the fee will come into effect. Section 309(a)(5) authorizes the Administrator under certain limited circumstances to extend for a maximum of 18 months the statutory date for compliance. Therefore, the noncompliance fee provision is effective on July 1, 1979. The noncompliance fee for the 1983 deadline will become effective 6 months after the statutory date in 1983.

Rather than determining the size of the fee based upon specific data related to the source in noncompliance, the Administrator may choose to base the fee upon industrywide costs.

In the event an owner or operator contests the noncompliance fee established under this section, he may seek review of such penalty in the appropriate United States district court. Upon review, the action of the Administrator or the State shall be affirmed, unless the court

finds that such action is arbitrary, capricious or otherwise not in accordance with this section on the Administrator's guidelines.

Civil and criminal remedies for noncompliance that exist under the Act are in addition to payment of a noncompliance fee.

Conference substitute

No comparable provision.

COMPLIANCE WITH STATE REQUIREMENTS

House bill

No comparable provision.

Senate amendment

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

Conference substitute

The conference substitute is the same as the Senate amendment.

The inserting of section 303 into the series of sections listed in section 401 is intended to mean that a federally licensed or permitted activity, including discharge permits under section 402, must be certified to comply with State water quality standards adopted under section 303. The inclusion of section 303 is intended to clarify the requirements of section 401. It is understood that section 303 is required by the provisions of section 301. Thus, the inclusion of section 303 in section 401 while at the same time not including section 303 in the other sections of the Act where sections 301, 302, 306, and 307 are listed is in no way intended to imply that 303 is not included by reference to 301 in those other places in the Act, such as sections 301, 309, 402, and 509 and any other point where they are listed. Section 303 is always included by reference where section 301 is listed.

ENVIRONMENTAL PROTECTION AGENCY ISSUANCE OF PERMITS

House bill

No comparable provision.

Senate amendment

This amendment provides that in any case where the Administrator objects to the issuance of a permit by a State he may, at the time of the objection, issue a permit under section 402(a) for that source in accordance with the guidelines and requirements of the Act. Any such permit shall be subject to the State's refusal to certify under section 401 for sixty days after it has been issued.

Conference substitute

The conference substitute amends section 402(d) of the Act to require the Administrator to include in the written objections to the issuance of a permit by a State the reasons for the objection and the effluent limitations and conditions such permit would include if it were issued by the Administrator. If hereafter the Administrator objects

to the issuance of a permit by a State, if the State requests it a public hearing shall be held on the objection. If the State fails to resubmit a revised permit meeting the objection within 30 days of completion of the hearing, or within 90 days of the date of the objection if no hearing is requested, the Administrator may issue the permit for such source in accordance with the requirements of the Act.

There have been occasions under the existing law where the Administrator has objected to the issuance of a State permit, the State has refused to issue a revised permit, and in the absence of effluent limitations for a source specified in a permit, the Administrator has initiated enforcement action against the source seeking particular effluent reductions. This may also have occurred in other cases where a valid permit is not in effect. After the date of enactment of this provision the Administrator is expected to use the authority given by this amendment to issue a permit after objecting to a State-issued permit. Thus any litigation over the degree of effluent reduction required for a source should take place in the context of judicial review of the permit, rather than in the context of an enforcement action.

The conferees modified this provision of the Senate bill to establish a procedure for appeal of an EPA veto of State permit and to authorize EPA to issue a permit in the event of an impasse. This provision in no way authorizes the Administrator to issue a permit less stringent than required by any State effluent limitations or water quality standards. That authority is specifically preserved in section 510 of the Act and is not affected by this amendment. Judicial review arising out of this provision would be in the same manner as judicial review of any EPA issued 402 permit.

ENFORCEMENT OF MUNICIPAL PERMITS

House bill

No comparable provision.

Senate amendment

This section amends section 402(h) of the Act to permit the Administrator to obtain injunctive relief against the introduction of any pollutant into a publicly owned treatment works which has been issued a State permit to discharge if he determines the permit has been violated and the State has not commenced appropriate enforcement action.

Conference substitute

The conference substitute is the same as the Senate amendment.

PERMITS FOR DREDGED OR FILL MATERIAL AND STATE PROGRAMS FOR BEST MANAGEMENT PRACTICES

House bill

Section 16 amends section 404 of the Federal Water Pollution Control Act by limiting the requirement for a permit to navigable waters and adjacent wetlands. Navigable waters are defined as those waters which are presently used or are susceptible to use in their present condition or with reasonable improvement to transport interstate or foreign commerce.

Section 16 also contains the following provisions:

The discharge of dredged or fill material into non-navigable waters and wetlands adjacent to them is regulated if the Secretary of the

Army and the Governor of the State in which they are located agree that their regulation is needed because of their ecological and environmental importance.

The Secretary of the Army is authorized to issue general permits. Normal farming, ranching and silviculture activities, the maintenance of structures such as dikes, dams and levees, and the construction and maintenance of farm or stock ponds and irrigation ditches are exempted from the requirement for a permit.

There is a similar exemption for Federal or Federally assisted projects where an environmental impact statement for the project has been submitted to Congress in connection with the authorization or funding of the project.

The Secretary of the Army's permit authority over wetlands adjacent to navigable waters may be delegated to a State if the State has the authority, responsibility and capability to exercise the authority and the delegation is in the public interest.

The Secretary's permit authority over freshwater lakes located entirely within the bounds of a State, under section 404 or sections 9, 10, and 13 of the Act of March 3, 1899, may likewise be delegated under the same conditions.

The discharge of dredged or fill material in waters other than navigable waters and in wetlands other than those adjacent to navigable waters is made subject to the regulation of toxic substances under section 307 of the Federal Water Pollution Control Act.

Senate amendment

Section 53 amends section 402 to provide a mechanism for approving permit programs of States for controlling disposal of dredge and fill material which meet their particular needs. Section 404 of the Act is amended to provide specific exemptions from any permit requirement for certain activities. The amendment also provides for the use of general permits as a mechanism for eliminating the delays and administrative burdens associated with this program.

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

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

This provision does not redefine navigable waters. Under the section as amended, the Army Corps of Engineers will continue to administer the section 404 permit program in all navigable waters for a discharge of dredge or fill material until the approval of a State program for phase 2 and 3 waters.

The provision exempts from permit requirements the maintenance and emergency reconstruction of existing fills such as highways, bridge abutments, dikes, dams, levees, and other currently serviceable structures.

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

The construction of farm and forest roads is exempted from section 404 permits.

The amendment exempts from permit requirements the construction of temporary mining roads for the movement of equipment. These roads must not only be designed and constructed in accord with the prescribed requirements for protection of the navigable waters applicable to roads, they must also be removed in a manner consistent with these requirements.

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

All exempt activities will be required to have permits if the activity introduces toxic materials into the navigable waters.

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

The provision continues the requirement that a permit must be obtained under section 402(1) or section 404 to minimize or prevent adverse effects caused by altering the flow or the reach of the navigable waters from direct discharges of dredged or fill material.

Under this section, a State may elect to seek approval of a dredge and fill permit program independent of any application for approval of a National Pollutant Discharge Elimination System program.

The provision also provides that a State may elect to administer its dredge and fill permit program independent of the National Pollutant Discharge Elimination System program.

The provision encourages the use of a variety of existing or developing State and local management agencies and recognizes mapping, protective orders, standards of performance and the like as useful management tools.

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

The Administrator shall consult with the Secretary of the Army and the Director of the Fish and Wildlife Service prior to his approval of a State permit program for control of discharges of dredge and fill material (sec. 402(1)(2)).

This section adds a requirement for a consultation process with the State agency having primary jurisdiction over fish and wildlife resources in developing the 208 regulatory program.

In this regard, an amendment to section 208 is included which would authorize and direct the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, to consult with and provide technical assistance to any State or designated agency in developing and operating a continuing planning process (sec. 208(j)(1)).

Further, a requirement for a coordination process with the Fish and Wildlife Service is added, including a process for use of the National Wetland Inventory being conducted by that agency as part of the State's regulatory program under section 208(b)(4).

The section provides an authorization of $6 million to the Secretary of the Interior to complete the initial phase of the National Wetland Inventory by December 31, 1978.

Also, the provision authorizes the use of general permits by the Corps and States with approved programs for classes or categories of activities which cause, individually or cumulatively, only minimal environment impact.

Conference substitute

AMENDMENTS TO SECTION 404

Section 67 of the conference substitute amends subsection (a) of section 404 of the Act to require that the Secretary publish notice of any application for a permit under subsection (a) within 15 days after the applicant submits all required information. The conference substitute adds a new subsection (e) to section 404 which gives the Secretary authority to 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 are similar in nature, and cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued by the Secretary shall be based on the guidelines set forth in subsection (b) of section 404 and shall include the requirements and standards which apply to activities authorized by the permit. Any general permit issued by the Secretary shall be for a period of not more than five years and may be revoked or modified if after opportunity for public hearing the Secretary determines that activities authorized by the permit have an adverse impact on the environment or are more appropriately authorized by individual permits. The conference substitute also adds a new subsection (f) which provides that the discharge of dredged or fill material (1) from normal farming, silviculture, and ranching activities, (2) for the purpose of maintenance (including emergency reconstruction of recently damaged parts) of currently serviceable structures, (3) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches or the maintenance of drainage ditches, (4) 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, (5) 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 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, (6) 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 section 404 or 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307). This subsection (f) shall not apply if the discharge of dredged or fill material into the navigable waters is 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. The conference substitute also adds subsections (g) through (l) of section 404. These new subsections establish a process to allow the Governor of any State to administer an individual and general permit program for the discharge of dredged or fill material into phase 2 and 3 waters after the approval of a program by the Administrator.

Subsection (g) requires the Administrator upon receipt of a program from a State to submit copies of such program to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service who have 90 days from the date of receipt of the program to submit any comments with respect to the program to the Administrator in writing. Within 120 days after the receipt by the Administrator of a program submitted by a State the Administrator shall determine, taking into account any comments received from the Secretary and the Secretary of the Interior, whether such State has certain authority with respect to the issuance of permits pursuant to the program. The authority which the State must have in order for the program to be approved by the Administrator is essentially the same authority it must have to administer a 402 permit program under the Act. If, with respect to a State program submitted under subsection (g) of section 404, the Administrator determines that the State has the requisite authority to carry out the program he shall approve the program and notify the Secretary who shall suspend the issuance of permits under subsections (a) and (e) of that section for activities covered by the State program. If the Administrator determines that the State does not have the requisite authority to administer the program, he must so notify the State which notification is to include any revisions or modifications necessary so that the State can resubmit the program for a new determination by the Administrator. If the Administrator fails to make a determination with respect to a State program within the 120 days provided, the program is deemed approved and the Administrator must so notify the State and the Secretary who shall suspend the issuance of permits under subsections (a) and (e) of section 404 for activities covered by the State program. Upon notification that a State program has been approved by the Administrator, the Secretary shall transfer any applications for permits pending with the Secretary for activities with respect to which a permit may be issued pursuant to the State program to the State for appropriate action. Also, if a State, after its permit program has been approved, notifies the Secretary that it intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of section 404 with respect to activities in that State, the Secretary shall suspend the administration and enforcement of such general permit with respect to those activities.

New subsection (i) of section 404 provides that whenever the Administrator determines, after public hearing, that a State is not ad-

ministering its permit program in accordance with this section he shall so notify the State, and if corrective action is not taken by the State within 90 days, the Administrator shall withdraw approval of the program until the corrective action is taken and shall notify the Secretary that the Secretary shall resume the issuance of permits under this section until such State again has an approved program. New subsection (j) requires each State which has an approved permit program under section 404 to transmit to the Administrator a copy of each permit application received by the State and a copy of each proposed general permit which such State intends to issue. The Administrator is to provide copies of each permit application or each proposed general permit within 10 days of its receipt 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 the State on the permit application or the proposed general permit he must notify the State within 30 days, and provide the written comments, after consideration of any written comments from the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, within 90 days, after the receipt of the application or the proposed general permit. If the Administrator has notified the State within the 30-day period that he intends to submit written comments the State shall not issue the proposed permit until after the receipt of the comments from the Administrator or after such 90th day, whichever first occurs.

A State shall not issue a proposed permit after such 90th day if it has received written comments from the Administrator in which he objects to the issuance of the proposed permit and the proposed permit is one that has been submitted to the Administrator pursuant to section 404(h)(1)(E) or the Administrator objects to the issuance of the proposed permit as being outside the requirements of section 404 unless the State modifies the proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under subsection (j) of section 404 the objection shall contain a statement of the reasons for the objection and the conditions which the permit would include if it were issued by the Administrator. If the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on the objection. If the State does not resubmit the permit revised to meet the objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of the objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of section 404, as the case may be, for the source in accordance with the guidelines and requirements of the Act. New subsection (k) of section 404 authorizes the Administrator, in accordance with section 304(h)(2) guidelines, to waive the requirements of section 404(j) at the time of the approval of a State permit program for any category of discharge within the State submitting the program. New subsection (l) of section 404 requires the Administrator to promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of section 404(j) in any State with a program approved under section 404. New subsection (m) of section 404 requires that within 90 days after the Secretary notifies the Secretary

of the Interior, acting through the Director of the United States Fish and Wildlife Service, that an application for a permit under section 404(a) has been received by the Secretary or that the Secretary proposes to issue a general permit under section 404(e), the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to the application or the proposed general permit in writing to the Secretary. New subsection (n) of section 404 indicates that nothing in that section shall be construed to limit the authority of the Administrator under section 309 of the Act. New subsection (o) of section 404 requires that a copy of each permit application and each permit issued under section 404 be available to the public and that the permit application be available on request for the purpose of reproduction. New subsection (p) of section 404 indicates that compliance with a permit issued under that section, including any activity carried out pursuant to a general permit, shall be deemed compliance for purposes of sections 309 and 505 of the Act, with sections 301, 307, and 403 of the Act.

New subsection (q) of section 404 provides that within 180 days after the date of the enactment of the subsection the Secretary shall enter into agreements with the Administrator, the Secretaries of the Department 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 section 404. The agreements shall be developed to assure that, to the maximum extent practicable, decisions with respect to applications under section 404(a) will be made within 90 days after the date the notice for such application was proposed. New subsection (r) of section 404 provides that 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 the enactment of this new subsection, is not prohibited by or otherwise subject to regulation under section 404, or a State program approved under that 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 the discharge is included in an environmental impact statement for such project and such statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of the project and prior to either authorization of the project or an appropriation of funds for the construction. New subsection (s) of section 404 provides similar enforcement authority with respect to permits issued by the Secretary under section 404 as is provided to the Administrator in section 309 of the Act with respect to permits issued under section 402 and 404 of the Act. New subsection (t) of section 404 provides that nothing in section 404 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 the State, including any activities of any Federal agency, and that each agency shall comply with the State, or interstate requirements, both substantive and procedural to control the discharge of the dredged or fill material to the same extent that any person is subject to its requirements. This new subsection is not to be construed as affecting or impairing the authority of the Secretary to maintain naviga-

tion. Finally, 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 the Secretary by section 404 of the Act and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to Lake Chelan, Washington, if he determines that the State has the authority, responsibility, and capability to carry out the functions and that the delegation is in the public interest. The delegation shall be subject to such terms and conditions as the Secretary deems necessary.

The Conference substitute provides for the administration by a State of its own permit program for the regulation of the discharge of dredged or fill material into the navigable waters other than traditionally navigable waters and adjacent wetlands if the program of the State meets the requirements set forth in the Conference substitute and is approved by the Environmental Protection Agency. The Federal program for the regulation of the discharge of dredged or fill material into these waters is then suspended.

The conferees wish to emphasize that such a State program is one which is established under State law and which functions in lieu of the Federal program. It is not a delegation of Federal authority. This is a point which has been widely misunderstood with regard to the permit program under section 402 of the Act. That section, after which the Conference substitute concerning State programs for the discharge of dredged or fill material is modeled, also provides for State programs which function in lieu of the Federal program and does not involve a delegation of Federal authority.

The exemption from the requirement for a section 404 permit granted certain Federal projects in the conference substitute is in recognition of the Constitutional principle of separation of powers. Where a project has been specifically authorized by the Congress that authorization should not thereafter be subject to nullification by an executive agency. The Conferees have, however, limited the exemption so as to ensure that the Congress will have full information on the impacts of the discharge of dredged or fill material associated with a a project when it determines whether or not to authorize the project or to appropriate funds for its construction. Only those projects which have received an analysis of the effects of a discharge equivalent to that provided under the guidelines promulgated under section 404 (b) (1) prior to authorization or specific funding for activities which would result in the discharge of dredge and fill material are exempt. An environmental impact statement addressing the impact of the discharge, with particular reference to the guidelines promulgated pursuant to subsection 404(b) (1), must have been submitted to Congress prior to either the authorization or the appropriation of funds. Thus Congress is to have the benefit of all the necessary information when it makes its decision. It is emphasized that the failure of a project to meet these requirements will result in the project having to obtain a section 404 permit. It would not require a reauthorization or additional appropriation action.

To expedite the consideration of permit applications, and to avoid unnecessary delay, the conference substitute provides that any comments of the Fish and Wildlife Service concerning an application for a section 404 permit be furnished to the Secretary of the Army, acting

through the Chief of Engineers, within ninety days, and that such comments must be in writing. If such comments are not received within this ninety day period, the Secretary is expected to proceed with the consideration and final disposition of the permit application.

This procedure is intended to recognize that the Fish and Wildlife Service, because of its responsibilities to protect a very vital natural resource, should provide advice and consultation. Allegations have been made that the Fish and Wildlife Service has not provided written recommendations concerning responsible requirements to be included as permit conditions. Rather, it is alleged that verbal demands are made and permit negotiations conducted on the basis of resolving these verbal requirements. This practice is unacceptable. That is why a written coordination procedure has been adopted. In doing so, however, the Fish and Wildlife Service should be involved at the beginning of the permit process and not after the fact.

The section 404 permit process is not to be used as the sole vehicle to require land exchange in the case of non-Federal activities. Any such requirements must be imposed solely through specific requirements of applicable statutes.

A qualification on the exemptions granted by new subsections (f) and (r) is that permits are required for discharges of dredged or fill material containing toxic pollutants regulated under section 307.

The exemptions agreed to by the conferees for normal farming, silviculture and ranching activities attempt to clarify that many of the normal activities included within these categories were never intended by the Congress in the 1972 Act to be within the section 404 permit program. The Corps of Engineers regulations under existing law include, among other things, such exemptions.

AMENDMENTS TO SECTION 208

Section 34(a) of the conference substitute amends section 208(b)(4) of the Act to allow the Governor of a State to develop and submit the requirements of clauses (F) through (K) of paragraph (2) of section 208(b) to the Administrator for application to a class or category of activity throughout the State. In addition, section 34(a) adds the following new subparagraphs to section 208(b)(4):

Subparagraph (B) which requires that any program submitted under subparagraph (A) of that section which is, in whole or in part, to control the discharge or other placement of dredged or fill material into the navigable waters include the following: (i) a consultation process with the State agency with primary jurisdiction over fish and wildlife; (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 of the Act, conducted pursuant to the 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 the 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 (I) violation of any condition of the best management practice, and (II) change in any activity that requires either a

temporary or permanent reduction or elimination of the discharge pursuant to the best management practice; and (v) a process to assure continued coordination with Federal and Federal-State water-related planning and reviewing processes, including the National Wetlands Inventory.

Subparagraph (C) which provides that if a State obtains approval from the Administrator of a statewide regulatory program and if the State is administering a permit program under section 404 of the Act, no person is required to obtain an individual 404 permit or comply with a general 404 permit with respect to any appropriate activity within the State for which a best management practice has been approved by the Administrator under the State's approved 208 program.

Subparagraph (D) which requires the Administrator, whenever the Administrator determines after a public hearing that a State is not administering a program approved under section 208 of the Act in accordance with the requirements of the section to so notify the State and if appropriate corrective action is not taken within not to exceed 90 days the Administrator shall withdraw approval of the program. The Administrator prior to the withdrawal of approval must make public, in writing, the reasons for the withdrawal. In the case of a State with a program submitted and approved under section 208(b)(4), the Administrator shall withdraw approval of the program under this subparagraph only for a substantial failure of the State to administer its program in accordance with such section.

Section 34(b) adds a new subsection (i) to section 208 which requires the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, upon request of the Governor of a State, and without reimbursement to provide technical assistance to the State in developing a statewide program under section 208(b)(4)(B) and in implementing the program after its approval. Also, subsection (i) authorizes to be appropriated to the Secretary of the Interior $6,000,000 to complete the National Wetlands Inventory by December 31, 1981, and to provide information from the Inventory to States as it becomes available to assist States in the development and operation of programs under the Act.

The conference substitute amends section 208 of the Act to provide for the development and implementation of section 208 programs, administered by the State Government, for the regulation of a class or category of activity involving dredge or fill material throughout the State in accordance with best management practices. In reviewing and approving any program applying best management practices under section 208(b)(4)(C), the Administrator shall consider whether the proposed best management practices requirements are in fact the best applicable practices, as well as whether such a program will adequately protect the navigable waters at least to the same extent as if the activity were regulated in accordance with the section 404(b)(1) guidelines.

For example, a program may be developed for the use of best management practices for a forestry activity.

If a State regulatory program is approved by the Administrator, and if the State has a permit program approved by the Administrator under section 404, then no individual permit is required under section

404 for an activity which involves the discharge of dredged or fill material which is in conformance with the prescribed best management practices. If a particular program is disapproved by the Administrator, as provided by the conference substitute, that disapproval only applies to that particular program and not to other approved programs regulating other classes or categories of activities.

The new section 208(b)(4) programs to address dredge or fill activities are distinct from and can be developed separately from the other section 208(b)(2) programs.

The National Wetlands Inventory is intended to be used for technical assistance, as the regulatory agency deems appropriate, in carrying out this program.

SLUDGE DISPOSAL

House bill

No comparable provision.

Senate amendment

This section amends section 405 of the Act to require that any permit for the discharge of sewage sludge shall be issued pursuant to section 402 of the Act and subject to all of the criteria, factors, procedures, and requirements of that section.

Conference substitute

The conference substitute is the same as the Senate amendment with conforming amendments.

EMERGENCY FUND

House bill

Section 7 amends section 504 of the Act to establish a contingency fund to be used by EPA in handling emergency situations such as those which present an imminent and substantial danger to public health or welfare, require the protection of persons where the endangerment is to their livelihood, and those which result from natural and other disasters. EPA would be required to report annually to the Congress on its activities under this section.

Nothing in this section shall be construed to relieve the Administrator of any requirement imposed on the Administrator by any other Federal law. Also, nothing in this section shall affect any final action taken under such other Federal law, or affect in any way the extent to which human health or the environment is to be protected under such other Federal law.

Funds are to be appropriated as necessary to replace expenditures from the fund in order to maintain it at a $5,000,000 level.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute amends section 504 of the Act to authorize the Administrator to provide assistance in emergencies and establishes a contingency fund for this purpose. This fund is to be maintained at a level of $10,000,000. The Administrator is authorized to provide emergency assistance whenever it is immediately required to prevent, limit,

or mitigate the emergency, there is an immediate significant risk to public health or welfare and the environment, and this assistance will not otherwise be provided on a timely basis. The Administrator is required to prepare and publish a contingency plan for responding to emergencies and, at the discretion of the Administrator, emergency assistance provided because of the discharge of a pollutant subject to section 311 of the Act may be a removal cost added to liabilities under that section. The cost for emergency assistance provided as a result of the discharge of a pollutant in violation of section 301, 306, 307, 402, or 403 of the Act shall be recoverable from the owner or operator of the source of the discharge. The remainder of the provision is the same as the House bill.

COMBINED SEWER OVERFLOWS

House bill

No comparable provision.

Senate amendment

This provision requires the Administrator to prepare and submit a study by October 1, 1978, on combined sewer overflows in municipal treatment works operation, including status of existing funded projects, needs, time required to correct combined sewer overflows, analysis of pollutant discharges from overflow compared to treated effluent discharges, technological alternatives, and recommendations for legislation, including necessity for a separate program.

Conference substitute

The conference substitute is the same as the Senate amendment.

UTILIZATION OF TREATED SLUDGE

House bill

No comparable provision.

Senate amendment

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

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

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

Conference substitute

The conference substitute is the same as the Senate amendment with the addition that in carrying out this provision the Administrator is required to consult with and use the services of TVA and other departments, agencies and instrumentalities of the United States to the extent appropriate.

SHORT TITLE OF THE ACT

House bill

No comparable provision.

Senate amendment

Amends section 518 to provide that the short title of the Act shall be the Clean Water Act.

Conference substitute

The conference substitute amends section 518 to recognize that the Act is commenly referred to as the Clean Water Act. The short title of the Act remains unchanged.

COST RECOVERY STUDY AND WATER CONSERVATION

House bill

Section 21 requires the Administrator to study the efficiency of, and need for, the payment by the industrial users of any treatment works of that portion of the cost of construction of that treatment works which is allocable to the treatment of each industrial users' waste to the extent attributable to the Federal share of the cost of construction.

Section 21 further provides that for a period of 18 months after the date of enactment of this section, no officer or employee of the Federal Government shall enforce, or require any recipient of a construction grant to enforce any provision in an application for a grant or in a grant agreement which requires industrial cost recovery payments.

Senate amendment

Section 20 amends section 204(b)(3) to allow a grantee which received a grant prior to the enactment of the Clean Water Act of 1977 to reduce the amounts to be paid by any industrial user which reduces its total flow of sewage or unnecessary water consumption. The amounts to be paid are to be reduced in proportion to the flow reduction achieved as determined in accordance with regulations promulgated by the Administrator.

Section 20 also amends section 204(a)(5) to require that the amount of reserve capacity approved by the Administrator shall take into account, in accordance with regulations promulgated by the Administrator, efforts to reduce flow of sewage and unnecessary water consumption.

Conference substitute

The conference substitute contains both the provisions of the House bill and the amendment to section 204(b)(3) of the Act in the Senate amendment. The Senate amendment to section 204(a)(5) is contained in section 21 of the conference substitute.

During the period of moratorium, the conferees expect the Administrator to continue to make grants and not to withhold any funding. Any funds which have been withheld should be released. At the same time, the existence of the moratorium in no way exempts any applicant or grant recipient from the requirement to develop a system for industrial cost recovery. At the end of the 18-month period, if Congress has not changed the law, the grant recipient must begin to collect

industrial share of Federal grants for appropriate distribution. The grant recipient may spread the accrued industrial cost liability over the remaining life of the treatment works in order to avoid large lump sum payments.

SEAFOOD PROCESSING STUDY

Section 74 of the conference substitute requires the Administrator to conduct a study to determine the effects of seafood processes which dispose of untreated natural wastes into marine waters, to examine technologies to facilitate the use of nutrients in these wastes or to reduce their discharge into the marine environment. The results are to be reported to the Congress by January 1, 1979.

The conferees intend the Administrator of EPA to make a thorough review of marine discharges by the seafood processing industry. This study should take a full year to complete so that the full cycle of seafood wastes are examined and their compatibility with marine waters determined. The conferees expect this study to be completed and submitted to Congress by January 1, 1979. This study shall in no way interfere with the on-going regulatory process.

SECONDARY TREATMENT FACILITY SITE

House bill

Section 22 directs the Administrator of the Environment Protection Agency to reimburse the City of Boston, Massachusetts an amount equal to seventy-five percent, but not to exceed $15,000,000, of the cost of constructing a modern correctional dentention facility on condition that the City deed to the State of Massachusetts the city-owned propperty on Deer Island, which is the site of an existing correctional detention facility, for use by the State as the site for additional secondary treatment facilities and that the State deed to the City State-owned property for use by the City for a new correctional detention facility. $15,000,000 is authorized to be appropriated to carry out the section.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill except that the requirement that the State deed certain property to the city has been deleted.

No funds shall be made available under this provision unless there is an agreement to construct at Deer Island, Massachusetts, a secondary treatment facility.

TOTAL TREATMENT SYSTEM FUNDING

House bill

Section 4 amends section 202 of the Act to provide that if grants for the construction of a treatment works exceed the actual construction costs of the treatment works, the excess amount, if certain conditions

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are met, shall be a grant of the Federal share of a sewage collection system, except that the total of all grants for the sewage collection system under this provision cannot exceed $2,800,000.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is essentially the same as the House bill except that the provision is not a part of the Act, but is made an independent provision since it deals with a single case in Derry Township, Pennsylvania.

FINANCIAL DISCLOSURE

House bill

Section 20 provides for the filing of a financial disclosure statement by any EPA employee who performs any function or duty under the Act and who has any known financial interests in any person who is subject to regulation by the Act or who is applying for or receiving financial assistance under the Act. The Administrator may exempt specific positions of a regulatory and nonpolicymaking nature from the filing requirement.

The first such statement is to be filed on October 1, 1977, and annually thereafter. These statements are to be available to the public. The Administrator is required to report to Congress on disclosures and actions taken in regard thereto during the preceding calendar year beginning June 1, 1978, and annually thereafter.

Any officer or employee who knowingly violates this section is subject to a fine of up to $2,500, or imprisonment of up to one year, or both.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision. The conferees determined that financial disclosure requirements would be more appropriately dealt with in general legislation applicable to all Federal agencies.

RULE AND REGULATION REVIEW

House bill

Section 19 provides that either House of Congress may, by resolution, disapprove, in whole or in part, any administrative rule or regulation issued under the authority of the Federal Water Pollution Control Act.

Any rule or regulation adopted by an agency or department under the authority of this Act would be transmitted to Congress. During a period of 60 calendar days while Congress is in session, either body could adopt a resolution which would result in the disapproval of that rule or regulation.

Congressional inaction on or rejection of such a resolution, is not to be considered an expression of approval of the rule or regulation.

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Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

JUDICIAL REVIEW

House bill

Section 18 amends section 509(b)(1) of the Act regarding the judicial review of actions by the Administrator. Section 18 also adds two items for which a review of actions by the Administrator may be had in the Court of Appeals.

A new items (H) is added to section 509(b)(1) to provide that the decision of the Administrator to approve a State certification program pursuant to section (b) of the new subsection 214 of the Act, may be reviewed by the Circuit Court of Appeals of the United States for the Federal Judicial District in which a person seeking review resides or transacts business.

Also a new item (G) is added to section 509(b)(1) to expressly provide for review of the Administrator's actions in promulgating or revising regulations, providing guidelines for effluent limitations, under section 304(b) of the Act by any interested person in the Circuit Court of Appeals of the United States for Federal Judicial District in which such person resides or transacts such business.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision. These provisions were omitted as unnecessary.

REGULATION OF DETERGENTS IN GREAT LAKES REGION

House bill

No comparable provision.

Senate amendment

This amendment contains two major provisions.

One, it creates a series of limitations for the amount of phosphates contained in laundry detergents, dishwashing compounds, and water conditioners sold within the eight Great Lakes Basin States.

Two, it calls upon the Environmental Protection Agency to undertake a study to determine whether a national phosphate limitations program should be enacted by Congress.

Specifically, this amendment establishes a 0.5 percent by weight limitation on the amount of phosphorus contained in laundry detergents, an 8.7 percent by weight limitation on the amount of phosphates contained in commercial and household dishwashing compounds, and a 20 percent by weight limitation on the amount of phosphorus contained in water conditioners sold within the Great Lakes Basin States. These limitations would take effect 6 months after the date of enactment of this Act. In addition, this amendment directs the EPA to con-

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duct a study to determine the economic feasibility and environmental desirability of extending this limitation program to the rest of the Nation. A report and recommendations for further action is due within 6 months.

It provides for one uniform performance standard for all the Great Lakes States—Wisconsin, Minnesota, Michigan, Illinois, Ohio, Indiana, Pennsylvania, and New York.

Conference substitute

No comparable provision.

STUDY OF INDUSTRIAL DISPOSAL OF COMPATIBLE POLLUTANTS INTO THE MARINE ENVIRONMENT

It has been stated that some Virgin Islands and Puerto Rico rum distillers might safely dispose of certain natural wastes untreated into the marine environment. In response to these statements, the conferees direct the Administrator to conduct a study, to be completed by January 1979, to ascertain if there is merit in this argument and if disposal can be environmentally acceptable or even possibly beneficial. In this study the Administrator should specifically examine geographical, hydrological and biological characteristics of marine waters receiving such wastes to determine if the discharge can be environmentally acceptable either for the purpose of aquaculture or some other purpose. In addition, the study should examine technologies which might be used in these industries to facilitate the utilization of the valuable nutrients in these wastes or the reduction in discharge to the marine environment.

WATER TREATMENT CONTRACTING AND BID SHOPPING

Information was received that section 204(a)(6) of the 1972 Act which provides that no bids for equipment for treatment works may specify particular brand names, has been interpreted in current regulations in a way which requires acceptance of the low-dollar treatment equipment bid in practically all circumstances. Also, there is concern that post-contract bid shopping for lower-tier equipment suppliers by successful bidders for grantee construction contracts has increased.

Information on potential problems posed by post bid-shopping and the emphasis on low dollar bid, has also been presented to the Environmental Protection Agency by concerned equipment suppliers. The conferees direct the Administrator to review implementation of the section 204(a)(6) provisions to determine if any modifications of regulation or law may be necessary or appropriate. The Administrator is expected to include in the review an evaluation of whether or not principal subcontractors and equipment suppliers should be named in bid submissions for treatment works. The Administrator shall submit

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this report to Congress within 3 months after enactment of this Act. The Administrator should include an outline of any proposed actions, together with recommendations for any necessary legislation.

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