Public Law 87-88

July 20, 1961
[H. R. 6441]

AN ACT

To amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control, and for other purposes.

Federal Water Pollution Control Act Amendments of 1961.
70 Stat. 498.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the last sentence of section 1(a) of the Federal Water Pollution Control Act (33 U.S.C. 466(a)) is amended to read as follows: "To this end, the Secretary of Health, Education, and Welfare (hereinafter in this Act called the 'Secretary') shall administer this Act."

33 USC 466a-466g, 466i.

(b) Sections 2, 3, 4, 5, 6, 7, and 8(c)(3), and the first sentence of section 10(a), of such Act are each amended by striking out "Surgeon General" and "Surgeon General's" wherever they appear therein and inserting in lieu thereof "Secretary" and "Secretary's", respectively.

(c) Sections 4(a) and 7(c) of such Act are each amended by striking out "Public Health Service" and inserting in lieu thereof "Department of Health, Education, and Welfare".

(d) Sections 7(a)(2)(B) and 10(b) of such Act are each amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary".

(e) Section 10(a) of such Act is amended by striking out the second and third sentences thereof.

SEC. 2. Section 2 of the Federal Water Pollution Control Act is amended by inserting "(a)" after "SEC. 2." and by inserting at the end of such section the following:

Water quality control.

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

Storage.

"(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Secretary, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

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

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

Report to Congress.

SEC. 3. (a) The proviso in paragraph (4) of subsection (a) of section 4 of the Federal Water Pollution Control Act is amended to read as follows: "*Provided*, That the Secretary shall report annually to the appropriate committees of Congress on his operations under this paragraph;".

Research, etc.

(b) Section 4 of such Act is further amended by inserting at the end thereof the following new subsections:

"(d)(1) In carrying out the provisions of this section the Secretary shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

"(A) Practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of physical, chemical, and biological pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

"(B) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

"(C) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control water pollution not susceptible to other means of abatement.

Appropriation.

"(2) For the purposes of this subsection there is authorized to be appropriated not more than $5,000,000 for any fiscal year, and the total sum appropriated for such purposes shall not exceed $25,000,000.

"(e) The Secretary shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of water pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

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

Grants to States, etc.

SEC. 4. (a) Subsection (a) of section 5 of the Federal Water Pollution Control Act is amended by inserting immediately following "June 30, 1961, $3,000,000" the following: ", and for each succeeding fiscal year to and including the fiscal year ending June 30, 1968, $5,000,000".

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(b) Subsection (f) of section 5 of the Federal Water Pollution Control Act is amended by striking out "and" at the end of paragraph (4) thereof, by striking out the period at the end of paragraph (5) thereof and inserting in lieu thereof the following: "; and", and by adding after such paragraph (5) the following new paragraph:

"(6) sets forth the criteria used by the State in determining priority of projects as provided in section 6(b)(4)."

Effective dates.

(c) The amendment made by subsection (a) of this section shall take effect July 1, 1961.

(d) The amendment made by subsection (b) of this section shall take effect July 1, 1962.

Limitations.

SEC. 5. (a) Clause (2) of subsection (b) of section 6 of the Federal Water Pollution Control Act is amended to read as follows: "(2) except as otherwise provided in this clause, no grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Secretary, or in an amount exceeding $600,000, whichever is the smaller: *Provided*, That the grantee agrees to pay the remaining cost: *Provided further*, That, in the case of a project which will serve more than one municipality (A) the Secretary shall, on such basis as he determines to be reasonable and equitable, allocate to each municipality to be served by such project its share of the estimated reasonable cost of such project, and shall then apply the limitations provided in this clause (2) to each such share as if it were a separate project to determine the maximum amount of any grant which could be made under this section with respect to each such share, and the total of all the amounts so determined or $2,400,000, whichever is the smaller, shall be the maximum amount of the grant which may be made under this section on account of such project, and (B) for the purpose of the limitation in the last sentence of subsection (d), the share of each municipality so determined shall be regarded as a grant for the construction of treatment works;".

(b) Subsection (b) of such section 6 is further amended by striking out "and" at the end of clause (3) and by inserting before the period at the end of clause (4): "; and (5) no grant shall be made under this section for any project in any State in an amount exceeding $250,000 until a grant has been made thereunder for each project in such State (A) for which an application was filed with the appropriate State water pollution control agency prior to one year after the date of enactment of this clause and (B) which the Secretary determines met the requirements of this section and regulations thereunder as in effect prior to the date of enactment of this clause".

Reallocation of unobligated sums.

(c) The third sentence of subsection (c) of such section 6 is amended to read as follows: "Sums allotted to a State under the preceding sentence which are not obligated within six months following the end of the fiscal year for which they were allotted because of a lack of projects which have been approved by the State water pollution control agency under subsection (b)(1) of this section and certified as entitled to priority under subsection (b)(4) of this section, shall be reallotted by the Secretary, on such basis as he determines to be reasonable and equitable and in accordance with regulations promulgated by him, to States having projects approved under this section for which grants have not been made because of lack of funds: *Provided, however*, That whenever a State has funds subject to reallocation and the Secretary finds that the need for a project in a community in such State is due in part to any Federal institution or Federal construction activity, he may, prior to such reallocation, make an additional grant

Special provisions.

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with respect to such project which will in his judgment reflect an equitable contribution for the need caused by such Federal institution or activity. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. The allotments of a State under the second and third sentences of this subsection shall be available, in accordance with the provisions of this section, for payments with respect to projects in such State which have been approved under this section."

(d) Subsection (d) of such section 6 is amended to read as follows: Appropriations.

"(d) There are hereby authorized to be appropriated for each fiscal year through and including the fiscal year ending June 30, 1961, the sum of $50,000,000 per fiscal year for the purpose of making grants under this section. There are hereby authorized to be appropriated, for the purpose of making grants under this section, $80,000,000 for the fiscal year ending June 30, 1962, $90,000,000 for the fiscal year ending June 30, 1963, $100,000,000 for the fiscal year ending June 30, 1964, $100,000,000 for the fiscal year ending June 30, 1965, $100,000,000 for the fiscal year ending June 30, 1966, and $100,000,000 for the fiscal year ending June 30, 1967. Sums so appropriated shall remain available until expended: *Provided*, That at least 50 percent of the funds so appropriated for each fiscal year shall be used for grants for the construction of treatment works servicing municipalities of 125,000 population or under." Restriction.

(e) Section 6 is further amended by adding at the end thereof the following new subsection: Rate of wages for laborers and mechanics.

"(f) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects for which grants are made under this section shall be paid wages at rates not less than those prevailing for the same type of work on similiar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., secs. 276a through 276a-5)."

SEC. 6. (a) The first sentence of subsection (a)(1) of section 7 of the Federal Water Pollution Control Act is amended to read as follows: "There is hereby established in the Department of Health, Education, and Welfare, a Water Pollution Control Advisory Board, composed of the Secretary or his designee, who shall be chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees." Water Pollution Control Advisory Board.

(b) The first sentence of subsection (a)(2)(A) of such section 7 is amended by inserting before the period at the end thereof: ", and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective".

(c) Members of the Water Pollution Control Advisory Board (established pursuant to section 7(a) of the Federal Water Pollution Control Act as in effect prior to enactment of this Act) serving immediately before the date of enactment of this Act shall be members of the Water Pollution Control Advisory Board, established by the amendment made by subsection (a) of this section, until the expiration of the terms of office for which they were appointed.

SEC. 7. (a) Subsection (a) of section 8 of the Federal Water Pollution Control Act is amended to read as follows: 33 USC 466g.

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"ENFORCEMENT MEASURES AGAINST POLLUTION OF INTERSTATE OR NAVIGABLE WATERS

"SEC. 8. (a) The pollution of interstate or navigable waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of any persons, shall be subject to abatement as provided in this Act."

(b) Subsection (b) of such section 8 is amended by striking out "interstate waters" and inserting in lieu thereof "interstate or navigable waters".

(c) Paragraph (1) of subsection (c) of such section 8 is amended to read as follows:

Notification of pollution.

"(c)(1) Whenever requested by the Governor of any State or a State water pollution control agency, or (with the concurrence of the Governor and of the State water pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originates, give formal notification thereof to the water pollution control agency and interstate agency, if any, of the State or States where such discharge or discharges originate and shall call promptly a conference of such agency or agencies and of the State water pollution control agency and interstate agency, if any, of the State or States, if any, which may be adversely affected by such pollution. Whenever requested by the Governor of any State, the Secretary shall, if such request refers to pollution of interstate or navigable waters which is endangering the health or welfare of persons only in the requesting State in which the discharge or discharges (causing or contributing to such pollution) originate, give formal notification thereof to the water pollution control agency and interstate agency, if any, of such State and shall promptly call a conference of such agency or agencies, unless, in the judgment of the Secretary, the effect of such pollution on the legitimate uses of the waters is not of sufficient significance to warrant exercise of Federal jurisdiction under this section. The Secretary shall also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) and endangering the health or welfare of persons in a State other than that in which the discharge or discharges originate is occurring."

Conference of State and interstate agencies.

(d) Paragraph (3)(A) of subsection (c) of such section 8 is amended by striking out "interstate" and inserting in lieu thereof "interstate or navigable".

(e) Subsections (d), (e), and (f) of such section 8 are amended to read as follows:

Remedial action.

"(d) If the Secretary believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being endangered, he shall recommend to the appropriate State water pollution control agency that it take necessary remedial action. The Secretary shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

Public hearing.

"(e) If, at the conclusion of the period so allowed, such remedial action has not been taken or action which in the judgment of the Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary shall call a public hearing,

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to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a Hearing Board of five or more persons appointed by the Secretary. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of the Hearing Board and at least one member shall be a representative of the Department of Commerce, and not less than a majority of the Hearing Board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. At least three weeks' prior notice of such hearing shall be given to the State water pollution control agencies and interstate agencies, if any, called to attend the aforesaid hearing and the alleged polluter or polluters. On the basis of the evidence presented at such hearing, the Hearing Board shall make findings as to whether pollution referred to in subsection (a) is occurring and whether effective progress toward abatement thereof is being made. If the Hearing Board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Secretary concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution. The Secretary shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution, and shall also send such findings and recommendations and such notice to the State water pollution control agency and to the interstate agency, if any, of the State or States where such discharge or discharges originate.

Hearing Board.

Notice of hearing.

"(f) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Secretary—

Enforcement action.

Authority.

"(1) in the case of pollution of waters which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States to secure abatement of pollution, and

"(2) in the case of pollution of waters which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, may, with the written consent of the Governor of such State, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution."

(f) Subsection (h) of such section 8 is amended to read as follows:

Per diem allowances.

"(h) Members of any Hearing Board appointed pursuant to subsection (e) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such Board or otherwise engaged on the work of such Board, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

60 Stat. 808.

"(i) As used in this section the term—

Definitions.

"(1) 'person' includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State, and

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"(2) 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law."

Discharges from Federal installations.

SEC. 8. Section 9 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sentences: "In his summary of any conference pursuant to section 8(c)(3) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any Federal property. Notice of any hearing pursuant to section 8(e) involving any pollution alleged to be effected by any such discharges shall also be given to the Federal agency having jurisdiction over the property involved and the findings and recommendations of the Hearing Board conducting such hearing shall also include references to any such discharges which are contributing to the pollution found by such Hearing Board."

33 USC 466j.

SEC. 9. Section 11 of the Federal Water Pollution Control Act is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

Definitions.

"(d) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"(e) The term 'interstate waters' means all rivers, lakes, and other waters that flow across or form a part of State boundaries, including coastal waters."

Water Supply Act of 1958, amendment.
43 USC 390b.

SEC. 10. Section 301(b) of the Water Supply Act of 1958 (72 Stat. 319), is amended by striking out all beginning with "*Provided*," in the first proviso to the colon at the end of the second proviso and inserting in lieu thereof the following: "*Provided*, That the cost of any construction or modification authorized under the provisions of this section shall be determined on the basis that all authorized purposes served by the project shall share equitably in the benefits of multiple purpose construction, as determined by the Secretary of the Army or the Secretary of the Interior, as the case may be: *Provided further*, That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And provided further*, That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project".

Construction costs, payments.

Agreements.

Future demands.

Short title.

SEC. 11. This Act may be cited as the "Federal Water Pollution Control Act Amendments of 1961".

Approved July 20, 1961, 12:25 p.m.

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