U.S. Laws, Statutes, etc.

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE FIRST SESSION OF THE
NINETY-FIFTH CONGRESS
OF THE UNITED STATES OF AMERICA

1977

AND

REORGANIZATION PLANS,
RECOMMENDATIONS OF THE PRESIDENT
AND PROCLAMATIONS.

VOLUME 91

IN ONE PART

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1980

Public Law 95-217
95th Congress

An Act

Dec. 27, 1977
[H.R. 3199]

To amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes.

Clean Water Act of 1977.
33 USC 1251 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Clean Water Act of 1977".

SHORT TITLE

33 USC 1251 note.

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

33 USC 1376 note.

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

33 USC 1254.

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 $3,000,000 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,".

33 USC 1256.

(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;".

33 USC 1262.

(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,".

33 USC 1288.

(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". 33 USC 1324.

(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.". 33 USC 1376.

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: Water allocation authority.

"(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.". 33 USC 1251.

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

"(d) The Administrator, after consultation with the States, and River Basin Commissions established under the Water Resources Planning Act, shall submit a report to Congress on or before July 1, 1978, which analyzes the relationship between programs under this Act, and the programs by which State and Federal agencies allocate quantities of water. Such report shall include recommendations concerning the policy in section 101(g) of the Act to improve coordination of efforts to reduce and eliminate pollution in concert with programs for managing water resources.". 33 USC 1252. 42 USC 1962 note.

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". 33 USC 1254.

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: Establishment.

"(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

29-194 O - 80 - 101

reports and information relevant to this subsection from other Federal and State agencies, institutions, universities, and persons.".

ASSISTANCE FOR RESEARCH AND DEMONSTRATION PROJECTS

Grants to municipalities. 33 USC 1255.

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.".

33 USC 1254, 1263.

33 USC 1281.

ASSISTANCE FOR RECYCLE, REUSE, AND LAND TREATMENT PROJECTS

Grants.

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.".

33 USC 1282.

TRAINING GRANTS

33 USC 1259.

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".

Exemptions.

(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.".

33 USC 1284.

(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".

Supplemental State facilities.

(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

Alaskan village demonstration projects. 33 USC 1263.

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.

Coordination.

43 USC 1601 note.

33 USC 1254, 1255.

Report to congressional committees.

"(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.

Assistance.

"(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.".

Definitions.

(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."

Appropriation authorization.

33 USC 1263.

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:

33 USC 1281.

"(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

Grants.
Ante, p. 1569.

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

Privately owned treatment works, grants.

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

33 USC 1284.

"(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

Grants.

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 guide-

lines 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 cost effective alternative by more than 15 per centum.". 33 USC 1314.

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: 33 USC 1282.

"(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. State contributions. *Ante*, p. 1569.

"(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. Modification and replacement funding.

"(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.". "Eligible treatment works."

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.". 33 USC 1283.

CONTRACT ENFORCEMENT

33 USC 1283.

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

Grants.
33 USC 1284.
33 USC 1313.
Post, p. 1588.

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

Grant eligibility.
33 USC 1288.

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

Ad valorem tax systems.

(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.".

Systems of charges, requirements. 33 USC 1284.

(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

Waste treatment service charges, reduction.

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".

Service charges for industrial users, exemptions.

(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.".

33 USC 1284.

(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

Grant funds.
33 USC 1285.

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:

33 USC 1287.

"(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.

Funds, obligation.
Reallotment.

"(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.

Minimum State allotments.

"(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.

Appropriation authorization.

"(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:

Reserved funds, grants. 33 USC 1285.

"(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.".

33 USC 1281, 1283, 1284, 1292.

33 USC 1342, 1344.

Post, p. 1577.

(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.".

Construction grant programs. 33 USC 1251.

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:

Grant increases.

"(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.".

Ante, p. 1571.

REIMBURSEMENT AND ADVANCED CONSTRUCTION

33 USC 1286.

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,".

Applications, filing date.
33 USC 1286 note.
33 USC 1251 note.

(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

33 USC 1287.

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

Initial plans, certification and submittal.
33 USC 1288.

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.".

Grants.

(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.". 33 USC 1288.

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.". 33 USC 1362.

(c) Section 402 of the Federal Water Pollution Control Act is amended by adding at the end thereof a new subsection as follows: Permit requirements. 33 USC 1342.

"(1) 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: Dredged or fill material, placement.

"(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.

33 USC 1344.

"(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.

33 USC 1317, 1343.

"(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.

Statewide regulatory programs, permit requirements.

"(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.

Program approval withdrawal.

"(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.".

U.S. Fish and Wildlife Service, technical assistance.
33 USC 1288.

(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.

Appropriation authorization.

"(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:

Contracts program, establishment and administration. 33 USC 1288.

"(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, subject to such amounts as are provided in advance by appropriation acts, 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—

Contract terms.

"(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.

Technical and financial assistance.

"(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 shar-

ing 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.

Contract termination.

"(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.

Administration agreements reports and costs.

"(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.

Regulations.
Post, p. 1588.

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

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

16 USC 1001 note.
Appropriation authorization.

"(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: 13 USC 1291.

"(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.". Limitation.

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". 33 USC 1292.

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.". 33 USC 1294.

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 33 USC 1295.

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

Project category hearing.
33 USC 1296.

"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

33 USC 1297.

"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.".

33 USC 1251 note, 1281, 1311.

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; *Post*, p. 1589.

"(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 *Post*, p. 1587.

"(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,". 33 USC 1311.

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: Modifications.

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

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

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

"(C) such modification will not interfere with the attainment 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.". Application, eligibility.

MODIFICATION OF SECONDARY TREATMENT REQUIREMENT

33 USC 1311.

SEC. 44. Section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

33 USC 1342.

"(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;

Post, p. 1587.

"(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;

33 USC 1281.

33 USC 1281.

"(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.

"The discharge of any pollutant into marine waters."

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.".

33 USC 1251.

MUNICIPAL TIME EXTENSIONS

Request, terms and conditions, filing.

Supra.

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.

33 USC 1281.
33 USC 1317.
33 USC 1251 note.

"(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.

33 USC 1342.

"(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

Limitations.

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.".

33 USC 1284.

33 USC 1317.

PROCEDURE FOR MODIFICATIONS

Applications conditions. *Ante*, p. 1584.

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.

33 USC 1314.

"(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

Compliance date extension. *Supra*.

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: 33 USC 1314.

"(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. Conventional pollutants, publication and revision.

"(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. Public water supplies. *Ante*, p. 1583.

"(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. *Ante*, p. 1584.

"(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 *Ante*, p. 1582.

Cost analysis.

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

Consultation.
33 USC 1314.

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.".

Ante, p. 1569.

BEST MANAGEMENT PRACTICES FOR INDUSTRY

33 USC 1314.

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:

Regulations.

"(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.".

Post, p. 1589.
33 USC 1321.

33 USC 1311, 1312, 1316, 1317, 1343.
33 USC 1342.

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:

Supra.

"(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 deter-

mines, 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.

33 USC 208.

"(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).

Funds, transfer.

"(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.".

Appropriation authorization.

STATE REPORTS

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

33 USC 1315.

(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:

Effluent standards list, publication and revision.
33 USC 1317.

"(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 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.

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,

Ante, pp. 1583, 1587.

Standards promulgation, publication in Federal Register.

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 modification 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.

Comments and public hearing.

Revised standard.

Ante, pp. 1583, 1587.

"(3) Each such effluent standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.".

Standards review.

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

Effective date. 33 USC 1317.

"(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:

Modification prohibition. 33 USC 1311.

"(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 works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works.".

Requirement revision. 33 USC 1317.

Infra.

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

Enforcement, notification. Judicial relief. 33 USC 1319.

"(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".

State permit programs. 33 USC 1342.

(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.

Modifications. 33 USC 1342 note.

(d) Section 405 of the Federal Water Pollution Control Act is amended (1) by striking out in subsection (b) thereof "subject to

Sewage sludge disposal. 33 USC 1345.

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:

Regulations, consultation and publication.

"(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.

Revision.

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

Enforcement, State compliance orders. 33 USC 1319.

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.

Compliance order specifications.

(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.

Extension.

33 USC 1342.

33 USC 1311.

"(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:

Oil and hazardous substance liability.

"(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.".

33 USC 1321.

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).".

43 USC 1331 note.

33 USC 1501 note.

16 USC 1801 note.

(2) Section 311(b)(2)(A) of the Federal Water Pollution Control Act as 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)".

16 USC 1801 note.

(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),".

33 USC 1321.

43 USC 1331 note.

33 USC 1501 note.

(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 facility,".

(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, or shore facility," and inserting in lieu thereof "Any owner, operator, or person in charge of any onshore facility".

Penalty.

(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 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) 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)".

33 USC 1471 note.

(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.". **Penalty. 33 USC 1321.**

(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: **Definitions.**

"(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,". **Actual removal costs liability.**

(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.". **Third party liability.**

(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,". **Financial responsibility.**

(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 **Payment rights.**

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.".

Actual removal costs liability. 33 USC 1321.

(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.

Cost recovery.

"(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.".

Effective date. 33 USC 1321 note.

(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.

Limitations.

(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.".

43 USC 1331 note.

(j) No vessel subject to the increased amounts which result from the amendments made by subsections (d)(2), (d)(3), and (d)(4) of this section shall be required to establish any evidence of financial responsibility under section 311(p) of the Federal Water Pollution Control Act for such increased amounts before October 1, 1978.

33 USC 1501 note.

Effective date. 33 USC 1321 note.

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

Definitions. 33 USC 1322.

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: 33 USC 1322.

"(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: Great Lakes vessels, standards.

"(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.". *Ante*, p. 1587.

(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: Drinking water intake zone regulations.

"(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: Cooperative pollution control program coordination. 33 USC 1323.

"(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. *Ante*, p. 1588.

"(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.". Waiver. 33 USC 1342.

FEDERAL FACILITY COMPLIANCE

Ante, p. 1597.

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 thereof is subject pursuant to this section, and any such proceeding may be removed in accordance with 28 U.S.C. 1441 et seq. No officer, agent, or employee of the United States shall be personally liable for any civil penalty arising from the performance of his official duties, for which he is not otherwise liable, and the United States shall be liable only for those civil penalties arising under Federal law or imposed by a State or local court to enforce an order or the process of such court."; 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.".

Federal employee liability.

Military source exemption, regulations.

33 USC 1341.

(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

Surveys, financial assistance to States.
33 USC 1324.

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.".

Public information.
Ante, p. 1588.

(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: 33 USC 1328.

"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. Pollutant discharge, hearing.

"(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. Procedures and guidelines.

"(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.". State program approval.

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. 33 USC 1341.

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: 33 USC 1342.

"(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.". Public hearing.

(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.". Objections statement.

29-194 O - 80 - 103

ENFORCEMENT OF MUNICIPAL PERMITS

33 USC 1342.

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,".

Ante, p. 1592.

PERMITS FOR DREDGED OR FILL MATERIAL

Notice, publication.
33 USC 1344.

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:

"Secretary."

"(d) The term 'Secretary' as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

Notice and hearing.

"(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.

Limitations.

"(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).

Ante, p. 1577.

33 USC 1311, 1342.

"(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.

33 USC 1317.

State administrative program and authority statement, submittal and copies.

"(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.

Comments, submittal.

"(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.

State authority determination.

"(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;

33 USC 1317, 1343.

"(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.

33 USC 1318.

Notice and hearing.

"(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.

Recommendations.

"(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.

Consultation.

"(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.

Coordination.

"(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

Program approval and notification.

"(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.

Program resubmittal.

"(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.

Application transferral.

"(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

Administration and enforcement, suspension.

"(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.

State noncompliant programs, withdrawal notice.

"(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

Copies, transmittals to Federal agencies.

Comments, notification.

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 State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this Act.

Objection statement.

Public hearings.

Waiver.

Ante, p. 1588.

"(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.

Regulations.

"(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.

Comments, submittal by Interior Secretary.

"(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.

33 USC 1319.

"(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.

Copies, availability to public.

"(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.

33 USC 1365.
Ante, p. 1592.
33 USC 1311, 1317, 1343.

"(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.

Agreements with Federal agencies.

"(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.

33 USC 1342.

42 USC 4321 note.

"(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.

Violations. Compliance order, notice.

"(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 para-

Judicial relief, notice.

graph 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 acton shall be given immediately to the appropriate State.

Penalties.

"(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.

"Person."

"(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.

33 USC 1362.

"(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.".

33 USC 1318.

(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".

Enforcement.
Ante, p. 1592.

(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

33 USC 1345.

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 the 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". *Ante*, p. 1591.

(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: 33 USC 1364.

"(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. Contingency fund, appropriation authorization.

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

"(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— Assistance criteria.

"(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. Contingency, plan publication. *Ante*, p. 1595.

"(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 Costs.

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.".

33 USC 1311, 1316, 1317, 1342, 1343.
33 USC 1319.

COMBINED SEWER OVERFLOWS

Reports to Congress.
33 USC 1375.

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

Report to Congress.

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.".

33 USC 1254.

Consultation.

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.".

Report to Congress, legislative recommendations. 33 USC 1375.

Public hearing.

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 section 304(b)(4) of such Act to such guideline, the Administrator shall make a further review and redetermination of any such guideline.

Review and adjustments, publication. 33 USC 1314 note.

Ante, p. 1587.

33 USC 1369.

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.

33 USC 1251 note.

Submittal to Congress.

COST RECOVERY STUDY

SEC. 75. (a) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall study the efficiency of, and the need for, the payment by industrial users of any treatment works of that portion of the cost of

33 USC 1284 note.

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.

Report to Congress.

(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.

Ante, p. 1574.

(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.

Definitions.

33 USC 1251 note.

(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

33 USC 1344 note.

SEC. 76. The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to the State of Washington upon its request all or any part of those functions vested in such Secretary by section 404 of the Federal Water Pollution Control Act and by sections 9, 10, and 13 of the Act of March 3, 1899, relating to Lake Chelan, Washington, if the Secretary determines (1) that such State has the authority, responsibility, and capability to carry out such functions, and (2) that such delegation is in the public interest. Such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such delegation.

33 USC 1344.
33 USC 401, 403, 407.

SECONDARY TREATMENT FACILITY SITE

Land conveyance reimbursement.

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.

Appropriation authorization.

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— 33 USC 1281a. 33 USC 1281.

(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. Limitation.

Approved December 27, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-139 (Comm. on Public Works and Transportation) and 95-830 (Comm. of Conference).

SENATE REPORT No. 95-370 accompanying S. 1952 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Apr. 5, considered and passed House.

Aug. 4, considered and passed Senate, amended, in lieu of S. 1952.

Dec. 15, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 53:

Dec. 28, Presidential statement.