[CHAPTER 758]

AN ACT

To provide for water pollution control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes.

June 30, 1948
[S. 418]
[Public Law 845]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in connection with the exercise of jurisdiction over the waterways of the Nation and in consequence of the benefits resulting to the public health and welfare by the abatement of stream pollution, it is hereby declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in controlling water pollution, to support and aid technical research to devise and perfect methods of treatment of industrial wastes which are not susceptible to known effective methods of treatment, and to provide Federal technical services to State and interstate agencies and to industries, and financial aid to State and interstate agencies and to municipalities, in the formulation and execution of their stream pollution abatement programs. To this end, the Surgeon General of the Public Health Service (under the supervision and direction of the Federal Security Administrator) and the Federal Works Administrator shall have the responsibilities and authority relating to water pollution control vested in them respectively by this Act.

Water Pollution Control Act.
Policy of Congress.

SEC. 2. (a) The Surgeon General shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution agencies and interstate agencies, and with the municipalities and industries involved, prepare or adopt comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries thereof and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this subsection the Surgeon General is authorized to make joint investigations with any

Development of programs.

Joint investigations.

such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may deleteriously affect such waters.

Cooperation with States.

(b) The Surgeon General shall encourage cooperative activities by the States for the prevention and abatement of water pollution; encourage the enactment of uniform State laws relating to water pollution; encourage compacts between States for the prevention and abatement of water pollution; collect and disseminate information relating to water pollution and the prevention and abatement thereof; support and aid technical research to devise and perfect methods of treatment of industrial wastes which are not susceptible to known effective methods of treatment; make available to State and interstate agencies, municipalities, industries, and individuals the results of surveys, studies, investigations, research, and experiments relating to water pollution and the prevention and abatement thereof conducted by the Surgeon General and by authorized cooperating agencies; and furnish such assistance to State agencies as may be authorized by law.

Interstate compacts.

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

Approval by Congress.

Declaration of pollution as a public nuisance

(d) (1) The pollution of interstate waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of persons in a State other than that in which the discharge originates, is hereby declared to be a public nuisance and subject to abatement as herein provided.

Notification of pollution.

(2) Whenever the Surgeon General, on the basis of reports, surveys, and studies, finds that any pollution declared to be a public nuisance by paragraph (1) of this subsection is occurring, he shall give formal notification thereof to the person or persons discharging any matter causing or contributing to such pollution and shall advise the water pollution agency or interstate agency of the State or States where such discharge or discharges originate of such notification. This notification may outline recommended remedial measures which are reasonable and equitable in that case and shall specify a reasonable time to secure abatement of the pollution. If action calculated to secure abatement of the pollution within the time specified is not commenced, this failure shall again be brought to the attention of the person or persons discharging the matter and of the water pollution agency or interstate agency of the State or States where such discharge or discharges originate. The notification to such agency may be accompanied by a recommendation that it initiate a suit to abate the pollution in a court of proper jurisdiction.

Action upon failure to secure abatement.

(3) If, within a reasonable time after the second notification by the Surgeon General, the person or persons discharging the matter fail to initiate action to abate the pollution or the State water pollution agency or interstate agency fails to initiate a suit to secure abatement, the Federal Security Administrator is authorized to call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originate, before a board of five or more persons appointed by the Administrator, who may be officers or employees of the Federal Security Agency

Hearing.

or of the water pollution agency or interstate agency of the State or States where such discharge or discharges originate (except that at least one of the members of the board shall be a representative of the water pollution agency of the State or States where such discharge or discharges originate and at least one shall be a representative of the Department of Commerce, and not less than a majority of the board shall be persons other than officers or employees of the Federal Security Agency). On the basis of the evidence presented at such hearing the board shall make its recommendations to the Federal Security Administrator concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution.

Suit by U. S. for abatement.

(4) After affording the person or persons discharging the matter causing or contributing to the pollution reasonable opportunity to comply with the recommendations of the board, the Federal Security Administrator may, with the consent of the water pollution agency (or of any officer or agency authorized to give such consent) of the State or States in which the matter causing or contributing to the pollution is discharged, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution.

Defendant.

(5) Before or after any suit authorized by paragraph (4) is commenced, any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought, may, with the consent of the water pollution agency (or of any officer or agency authorized to give such consent) of the State in which such matter is discharged, be joined as a defendant. The court shall have power to enforce its judgment against any such defendant.

Judicial district of case.

(6) In any suit brought pursuant to paragraph (4) in which two or more persons in different judicial districts are originally joined as defendants, the suit may be commenced in the judicial district in which any discharge caused by any of the defendants occurs.

Jurisdiction of court.

(7) The court shall receive in evidence in any such suit a transcript of the proceedings before the board and a copy of the board's recommendation; and may receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require. The jurisdiction of the Surgeon General, or any other agency which has jurisdiction pursuant to the provisions of this Act, shall not extend to any region or areas nor shall it affect the rights or jurisdiction of any public body where there are in effect provisions for sewage disposal pursuant to agreement between the United States of America and any such public body by stipulation entered in the Supreme Court of the United States. While any such stipulation or modification thereof is in force and effect, no proceedings of any kind may be maintained by virtue of this Act against such public body or any public agency, corporation, or individual within its jurisdiction. Neither this provision nor any provision of this Act shall be construed to give to the Surgeon General or any other person or agency the right to intervene in the said proceedings wherein such stipulation was entered.

Jurisdiction of Surgeon General, etc.

"Person."

(8) As used in this subsection the term "person" includes an individual, corporation, partnership, association, a State, municipality, and a political subdivision of a State.

Investigations, etc., on specific problems.

SEC. 3. The Surgeon General may, upon request of any State water-pollution agency or interstate agency, conduct investigations and research and make surveys concerning any specific problem of water pollution confronting any State, interstate agency, community, municipality, or industrial plant, with a view to recommending a solution of such problem.

Reports and recommendations.

SEC. 4. The Surgeon General shall prepare and publish, from time to time, reports of such surveys, studies, investigations, research, and experiments made under the authority of this Act as he may consider desirable, together with appropriate recommendations with regard to the control of water pollution.

Loans for treatment works.
Post, p. 1160.

SEC. 5. The Federal Works Administrator is authorized, subject to the provisions of section 9 (c), to make loans to any State, municipality, or interstate agency for the construction of necessary treatment works to prevent the discharge by such State or municipality of untreated or inadequately treated sewage or other waste into interstate waters or into a tributary of such waters, and for the preparation (either by its engineering staff or by practicing engineers employed for that purpose) of engineering reports, plans, and specifications in connection therewith. Such loans shall be subject, however, to the following limitations: (a) No loan shall be made for any project unless such project shall have been approved by the appropriate State water pollution agency or agencies and by the Surgeon General, and unless such project is included in a comprehensive program developed pursuant to this Act; (b) no loan shall be made for any project in an amount exceeding 33⅓ per centum of the estimated reasonable cost thereof, as determined by the Federal Works Administrator, or in an amount exceeding $250,000, whichever amount is the smaller; (c) every such loan shall bear interest at the rate of 2 per centum per annum, payable semiannually; and (d) the bonds or other obligations evidencing any such loan (1) must be duly authorized and issued pursuant to State and local law, and (2) may, as to the security thereof and the payment of principal thereof and interest thereon, be subordinated (to the extent deemed feasible and desirable by the Federal Works Administrator for facilitating the financing of such projects) to other bonds or obligations of the obligor issued to finance such project or that may then be outstanding.

Limitations.

Review of reports, loan applications, etc.

SEC. 6. (a) The Surgeon General and the Federal Works Administrator, in carrying out their respective functions under this Act, shall provide for the review of all reports of examinations, research, investigations, plans, studies, and surveys, made pursuant to the provisions of this Act and all applications for loans under section 5. In determining the desirability of projects for treatment works and of approving loans in connection therewith, consideration shall be given to the public benefits to be derived by the construction thereof, the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for the loan for assuring proper and efficient operation and maintenance of the works after completion of the construction thereof.

Supra.

Water Pollution Control Advisory Board.

(b) There is hereby established in the Public Health Service a Water Pollution Control Advisory Board to be composed as follows: The Surgeon General or a sanitary engineer officer designated by him, who shall be Chairman of the Board, a representative of the Department of the Army, a representative of the Department of the Interior, a representative of the Federal Works Agency, and a representative of the Department of Agriculture, designated by the Secretary of the Army, the Secretary of the Interior, the Federal Works Administrator, and the Secretary of Agriculture, respectively; and six persons (not officers or employees of the Federal Government) to be appointed annually by the President. One of the persons appointed by the President shall be an engineer who is expert in sewage and industrial-waste disposal, one shall be a person who shall have shown an active interest in the field of wildlife conservation, and, except as the President may

determine that the purposes of this Act will be better furthered by different representation, one shall be a person representative of municipal government, one shall be a person representative of State government, and one shall be a person representative of affected industry. The members of the Board who are not officers or employees of the United States shall be entitled to receive compensation at a per diem rate to be fixed by the Federal Security Administrator, together with an allowance for actual and necessary traveling and subsistence expenses while engaged on the business of the Board. It shall be the duty of the Board to review the policies and program of the Public Health Service as undertaken under authority of this Act and to make recommendations thereon in reports to the Surgeon General. Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Public Health Service.

Appropriation authorized for loans

SEC. 7. There is hereby authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed the sum of $22,500,000 for the purpose of making loans under section 5 of this Act. Sums so appropriated shall remain available until expended.

Appropriation authorized for allotments to States.

SEC. 8. (a) There is hereby authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, the sum of $1,000,000, to be allotted equitably and paid to the States for expenditure by or under the direction of their respective State water pollution agencies, and to interstate agencies for expenditure by them, for the conduct of investigations, research, surveys, and studies related to the prevention and control of water pollution caused by industrial wastes. Sums appropriated pursuant to this subsection shall remain available until expended, shall be allotted by the Surgeon General in accordance with regulations prescribed by the Federal Security Administrator, and shall be paid prior to audit or settlement by the General Accounting Office.

Appropriation authorized for construction at Cincinnati, Ohio.
Ante, p. 1032

(b) There is hereby authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed $800,000 to enable the Federal Works Administrator to erect and to furnish and to equip such buildings and facilities at Cincinnati, Ohio, as may be necessary for the use of the Public Health Service in connection with the research and study of water pollution and the training of personnel in work related to the control of water pollution. The amount authorized for this purpose shall include the cost of preparation of drawings and specifications, supervision of construction and other administrative expenses incident to the work: *Provided*, That the Federal Works Agency shall prepare the plans and specifications, make all necessary contracts and supervise construction. Sums appropriated pursuant to this authorization shall remain available until expended.

Plans and specifications

Appropriation authorized for grants to States

(c) There is hereby authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed the sum of $1,000,000 to enable the Federal Works Administrator to make grants to States, municipalities, or interstate agencies to aid in financing the cost of engineering, architectural, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to the construction of projects approved by the appropriate State water pollution agency or agencies and by the Surgeon General. Grants made under this subsection with respect to any project shall not exceed whichever of the following amounts is the smaller: (1) $20,000, or (2) 33⅓ per centum of the

estimated reasonable cost (as determined by the Federal Works Administrator) of the action preliminary to the construction of such project. Sums appropriated pursuant to this subsection shall remain available until expended.

Appropriations authorized for functions
Ante, p 1032.

(d) There is hereby authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, such sum (not to exceed the sum of $2,000,000) as may be necessary to enable it to carry out its functions under this Act.

(e) There is hereby authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, such sum (not to exceed the sum of $500,000) as may be necessary to enable it to carry out its functions under this Act.

Appointment of officers.

SEC. 9. (a) Five officers may be appointed to grades in the Regular Corps of the Public Health Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this Act. Officers appointed pursuant to this subsection in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 207 (b) of the Public Health Service Act; but they shall for all other purposes be treated as though appointed pursuant to such section 207 (b).

Ante, p 40.

Detail of employees.

(b) The Federal Security Administrator, with the consent of the head of any other agency of the Federal Government, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

Transfer of funds.

(c) (1) Upon written request of the Federal Works Administrator, from time to time submitted to the Federal Security Administrator, specifying (a) particular projects approved by the Surgeon General, (b) the total estimated costs of such projects, and (c) the total sum requested for loans which the Federal Works Administrator proposes to make for such projects, the Federal Security Administrator shall transfer such total sum (within the amount appropriated therefor) to the Federal Works Administrator for the making of loans for such projects pursuant to section 5 hereof. In making such loans, the Federal Works Administrator shall adhere to the order or sequence of priority for projects established by the Surgeon General and shall take such measures as, in his judgment, will assure that the engineering plans and specifications, the details of construction, and the completed treatment works conform to the project as approved by the Surgeon General; and the Federal Works Administrator shall furnish written reports to the Federal Security Administrator on the progress of the work.

Ante, p. 1158.

Priority for projects.

Sale of bonds, etc.

(2) The Federal Works Administrator is hereby authorized (a) to hold, administer, exchange, refund, or sell at public or private sale any bonds or other obligations evidencing loans made under this Act; and (b) to collect, or provide for the collection of, interest on and principal of such bonds or other obligations. All moneys received as proceeds from such sales, and all moneys so collected, shall be covered into the Treasury as miscellaneous receipts.

Regulations.

(d) The Surgeon General and the Federal Works Administrator are each authorized to prescribe such regulations as are necessary to carry out their respective functions under this Act.

SEC. 10. When used in this Act—

"State water pollution agency."

(a) The term "State water pollution agency" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency;

(b) The term "interstate agency" means an agency of two or more States having powers or duties pertaining to the abatement of pollution of waters; "Interstate agency."

(c) The term "treatment works" means the various devices used in the treatment of sewage or industrial waste of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof; "Treatment works."

(d) The term "State" means a State, the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands; "State."

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

(f) The term "municipality" means a city, town, district, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes. "Municipality."

SEC. 11. This Act shall not be construed as (1) superseding or limiting the functions, under any other law, of the Surgeon General or of the Public Health Service, or of any other officer or agency of the United States, relating to water pollution, or (2) affecting or impairing the provisions of the Oil Pollution Act, 1924, or sections 13 through 17 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors and for other purposes", approved March 3, 1899, as amended, or (3) affecting or impairing the provisions of any treaty of the United States.

43 Stat. 604; 33 U.S.C. §§ 431-437.

30 Stat. 1152; 33 U.S.C. §§ 407-409, 411-413.

SEC. 12. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby. Separability.

SEC. 13. This Act may be cited as the "Water Pollution Control Act". Short title.

Approved June 30, 1948.