

## COASTAL DEFENSE INITIATIVE OF 1990

OCTOBER 15, 1990.—Ordered to be printed

Mr. ANDERSON, from the Committee on Public Works and Transportation, submitted the following

### REPORT

[To accompany H.R. 2647 which on June 14, 1989, was referred jointly to the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 2647) to provide for the protection and preservation of coastal and Great Lakes environmental quality for present and future generations, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended to pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### TITLE I—GENERAL PROVISIONS

##### SEC. 101. SHORT TITLE.

This Act may be cited as the "Coastal Defense Initiative of 1990".

##### SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Coastal waters are facing increasing threats to their long-term health and integrity through the concentration of growth and development in coastal regions.

(2) Special efforts must be made by all levels of government to achieve, maintain, and protect coastal water quality through strengthened standards and enforcement, improved monitoring and local planning, and increased and predictable funding for these efforts.

(b) PURPOSE.—The purpose of this Act is to forge a common commitment among Federal, State, and local programs to protect and preserve coastal and Great Lakes water quality for present and future generations.

##### SEC. 103. DEFINITIONS.

In this Act—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **APPROVED COASTAL ZONE MANAGEMENT PROGRAM.**—The term “approved coastal zone management program” means a State coastal zone management program approved by the Under Secretary pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(3) **CLEAN WATER ACT.**—The term “Clean Water Act” means the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(4) **COASTAL REGION.**—The term “coastal region” means—

(A) the Gulf of Maine region, comprised of the coastal waters off of Maine, New Hampshire, and Massachusetts (north of Cape Cod);

(B) the greater New York bight region, comprised of the coastal waters off of Massachusetts, Rhode Island, Connecticut, New York, and New Jersey, from south of Cape Cod to Cape May;

(C) the mid-Atlantic region, comprised of the coastal waters off of New Jersey south of Cape May, Delaware, Maryland, Virginia, and North Carolina;

(D) the South Atlantic and Caribbean region, comprised of—

(i) the coastal waters off of South Carolina, Georgia, and Florida (Atlantic coast); and

(ii) the coastal waters of Puerto Rico and the Virgin Islands;

(E) the Gulf of Mexico region, comprised of the coastal waters of the Gulf of Mexico off of Florida, Alabama, Mississippi, Louisiana, and Texas;

(F) the Great Lakes region, comprised of the Great Lakes waters of New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota;

(G) the Southern Pacific region, comprised of the coastal waters off of California south of Point Reyes;

(H) the Western Pacific region, comprised of the coastal waters off of Hawaii, Guam, American Samoa, and the Northern Marianas Islands; and

(I) the Northern Pacific region, comprised of—

(i) the coastal waters off of California, Oregon, and Washington, from Point Reyes to the Canadian border; and

(ii) the coastal waters of Alaska.

(5) **COASTAL WATER QUALITY MONITORING.**—The term “coastal water quality monitoring” means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends for the purpose of establishing a technical basis for decisionmaking.

(6) **COASTAL WATERS.**—The term “coastal waters” means—

(A) the waters of the Great Lakes under the jurisdiction of the United States, including their connecting waters, harbors, bays, wetlands, and marshes;

(B) those portions of rivers, streams, and other bodies of water of the United States having unimpaired connection with the open sea and which contain a measurable quantity or percentage of sea water, including salt wetlands, coastal and intertidal areas, bays, harbors, and lagoons; and

(C) waters of the territorial sea of the United States.

(7) **COASTAL ZONE.**—The term “coastal zone” has the meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)).

(8) **DISCHARGE OF POLLUTANTS.**—The terms “discharge of pollutants” and “discharges of a pollutant” have the meanings those terms have in section 502(12) of the Clean Water Act (33 U.S.C. 1362(12)).

(9) **SIGNIFICANT NONCOMPLIANCE.**—The term “significant noncompliance” means severe or chronic violations of—

(A) effluent limitations or discharge requirements established under the Clean Water Act;

(B) requirements established in a management program approved under section 319 of the Clean Water Act (33 U.S.C. 1329) applicable to coastal waters; or

(C) requirements established in a comprehensive conservation and management plan approved under section 320 of the Clean Water Act (33 U.S.C. 1330);

which result in formal enforcement action being taken by the Administrator or a State.

(10) **STATE PERMITTING AUTHORITY.**—The term “State permitting authority” means any duly authorized State official administering a State permit program for discharges into navigable waters, approved by the Administrator under section 402 of the Clean Water Act (33 U.S.C. 1342).

(11) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

## TITLE II—COASTAL WATER QUALITY

### SEC. 201. PURPOSE.

The purpose of this title is to strengthen the ability of Federal and State water quality programs to protect and restore the coastal waters of the United States.

### SEC. 202. COASTAL WATER QUALITY CRITERIA AND STANDARDS.

(a) CRITERIA AND INFORMATION.—Section 304(a) of the Clean Water Act (33 U.S.C. 1314(a)) is amended—

(1) in paragraph (1) by inserting ", including coastal water quality," after "water quality"; and

(2) by adding at the end the following:

"(9)(A) Within 6 months after the effective date of this paragraph, the Administrator shall submit to Congress a detailed 5-year schedule for developing and revising criteria for pollutants which the Administrator determines pose the greatest risk to coastal waters. In developing the schedule, the Administrator shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and the Governors of affected coastal States. The schedule shall provide, among other matters, for the issuance and publication within 2 years of new or revised criteria for such pollutants which the Administrator determines are of particular concern.

"(B) Within 2 years after the effective date of this paragraph and from time to time thereafter, the Administrator shall develop and publish biological criteria and sediment criteria for assessing coastal water quality that will complement the pollutant-specific criteria published under this section. In developing sediment criteria which relate to the removal and disposal of dredged material, the Administrator shall consult with the Secretary of the Army.

"(C) The Secretary of the Army is authorized to provide technical and scientific assistance to the Administrator with regard to the development of sediment criteria under subparagraph (B)."

(b) STANDARDS.—Section 303(c)(2) of the Clean Water Act (33 U.S.C. 1313(c)(2)) is amended by adding at the end the following:

"(C)(i) Whenever a coastal State reviews water quality standards pursuant to paragraph (1), the State shall adopt coastal water quality standards for those pollutants for which criteria and information have been published under section 304(a)(9).

"(ii) Standards adopted by a State under this subparagraph shall be designed to protect the designated uses adopted by the State and achieve the goals of this Act."

(c) ADDITIONAL AMENDMENTS.—Section 304(a)(8) of the Clean Water Act (33 U.S.C. 1314(a)(8)) is amended—

(1) by inserting "and from time to time thereafter," after "the Water Quality Act of 1987"; and

(2) by inserting "and other pollutants that may pose risks to coastal water quality," after "toxic pollutants".

### SEC. 203. RESTORING AND PROTECTING COASTAL WATER QUALITY.

(a) COASTAL WATER QUALITY.—Section 304 of the Clean Water Act (33 U.S.C. 1314) is amended by adding at the end the following:

"(n) COMPREHENSIVE COASTAL WATER QUALITY PROTECTION PROGRAMS.—

"(1) IN GENERAL.—Within 30 months after the effective date of this section, each coastal State shall develop a coastal water quality protection program for restoring and protecting coastal water quality and achieving and maintaining designated uses. The program shall build on the information contained in the report of the State under section 305(b), and shall build upon and incorporate the requirements applicable to coastal waters under subsection (l) of this section, sections 303(d), 319, and 320 of this Act, and section 306B of the Coastal Zone Management Act of 1972.

"(2) PROGRAM CONTENTS.—The coastal water quality program required by this subsection shall—

"(A) identify from time to time, but in no case less often than once every 3 years—

"(i) those coastal waters for which applicable water quality standards or designated uses are not being achieved or maintained and are not expected to be achieved without additional control measures, and

"(ii) those coastal waters that, although currently meeting applicable water quality standards and protecting designated uses, are threatened

by reasonably foreseeable increases in pollutant loadings from new or expanding sources of pollution;

"(B) for those coastal waters identified under subparagraph (A), identify and implement pollution control measures (including water quality based effluent limitations and best management practices) applicable to point and nonpoint sources of pollution, that based upon the best scientific information available are necessary to achieve and maintain coastal water quality standards and protect designated uses, utilizing authorities under this Act, including (where appropriate) the control strategies of subsection (1), approved programs under section 319, and approved plans under section 320, and authorities under the Coastal Zone Management Act of 1972, including section 306B;

"(C) identify coastal waters requiring additional intensive efforts beyond those required by subparagraph (B) and develop and implement detailed remedial programs for those waters consisting of load and wasteload allocations developed and implemented pursuant to section 303(d) of this Act and section 306B of the Coastal Zone Management Act of 1972;

"(D) establish a system whereby the Governor of the coastal State, or any other appropriate State authority, shall certify that the issuance or renewal of any discharge permits, and the undertaking of any other activities that are subject to the pollution control measures identified pursuant to subparagraph (B) or (C), complies with and is fully consistent with such pollution control measures;

"(E) ensures ample opportunity for public participation in all elements of the program; and

"(F) establishes mechanisms to improve coordination among State officials and State and local officials responsible for land use programs and permitting, water quality planning and permitting, habitat protection, and living resource management.

"(3) PROGRAM APPROVAL.—(A) No later than 2 1/2 years after the effective date of this subsection, each coastal State shall submit to the Administrator and the Under Secretary the program required by this subsection. The Administrator, in consultation with the Under Secretary, shall approve the program if the Administrator finds it meets the requirements of this subsection. The Administrator and the Under Secretary shall approve the portions of the program which relate to section 306B of the Coastal Zone Management Act of 1972 if the Administrator and the Under Secretary find that such portions meet the requirements of this subsection. If the proposed program does not meet the requirements, the Administrator and the Under Secretary shall coordinate their findings and promptly inform the State of the modifications that are necessary to meet the requirements and provide a reasonable time, not to exceed 6 months, within which the modifications may be made.

"(B) All applications from States for grants and other assistance pertaining to coastal waters under this section, section 319 or 320 of this Act, or section 306B of the Coastal Zone Management Act of 1972 shall describe in detail the manner in which State water quality, coastal zone, and other appropriate officials will use such assistance to implement the program required by this section.

"(C) The Administrator and the Under Secretary shall not provide any Federal financial assistance to a coastal State to implement section 319 or 320 of this Act or section 306B of the Coastal Zone Management Act of 1972 with respect to coastal waters if the State does not submit an approvable coastal water quality protection program for the State under this subsection within 3 years after the effective date of this subsection. The prohibition of this subparagraph shall terminate with respect to that State upon the approval of a program for that State.

"(4) DEFINITIONS.—In this section and sections 303, 305, and 309—

"(A) the term 'coastal State' means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

"(B) the term 'coastal waters' means (i) the waters of the Great Lakes under the jurisdiction of the United States, including their connecting waters, harbors, bays, wetlands, and marshes; (ii) those portions of rivers, streams, and other bodies of water of the United States having unimpaired connection with the open sea and which contain a measurable quantity or percentage of sea water, including salt wetlands, coastal and intertidal

areas, bays, harbors and lagoons; and (iii) waters of the territorial sea of the United States; and

"(C) the term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere."

(b) CONFORMING AMENDMENTS.—Section 303(d) of the Clean Water Act (33 U.S.C. 1313(d)) is amended—

(1) by inserting ", and those coastal waters of the State which are otherwise failing to attain or maintain applicable water quality standards or designated uses" before the period at the end of the first sentence of paragraph (1)(A); and (2) in the first sentence of paragraph (2) by inserting "(but at least once each 3 year period)" after "from time to time".

(c) REPORTING AND COMPLIANCE.—(1) Section 305(b)(1) of the Clean Water Act (33 U.S.C. 1315(b)(1)) is amended—

(A) in subparagraph (D) by striking "and" after the semicolon at the end;

(B) in subparagraph (E) by striking the period at the end and inserting "and"; and

(C) by adding at the end the following:

"(F) for coastal States, a description of—

"(i) the activities undertaken to establish and implement water quality standards based upon biological criteria for coastal waters within the State; and

"(ii) the activities to develop and implement pollution control measures pursuant to the State's coastal water quality protection program under section 304(n) of this Act."

(2) Section 106(f) of the Clean Water Act (33 U.S.C. 1256(f)) is amended—

(A) in paragraph (1) by inserting "and from time to time thereafter" before the colon; and

(B) in paragraph (1)(B) by inserting before the period at the end the following: "including a description of actions taken by the State in fulfilling the requirements of section 304(n)".

(3) Section 509(b)(1) of the Clean Water Act (33 U.S.C. 1369(b)(1)) is amended—

(A) by striking "and" in clause (F); and

(B) by inserting "and (H) approving a State coastal water quality protection program under section 304(n)," after "section 304(l)."

(4) Section 309(a) of the Clean Water Act (33 U.S.C. 1319(a)) is amended by adding at the end the following:

"(7) Whenever on the basis of any information the Administrator finds that a coastal State has failed to develop, implement, or enforce a coastal water quality protection program under section 304(n), the Administrator shall issue an order requiring the State to comply with such section or requirement, or shall commence a civil action in accordance with subsection (b)."

(5) Section 505(a) of the Clean Water Act (33 U.S.C. 1365(a)) is amended—

(A) by striking ", or" at the end of paragraph (1) and inserting a semicolon;

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and (C) by inserting after paragraph (2) the following new paragraph:

"(3) against the United States or any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, which is alleged to have committed one or more of the following failures with respect to section 304(n):

"(A) failure to develop or revise a plan in accordance with the time limits set forth in such section;

"(B) failure to review and decide whether or not to approve a State plan in accordance with the time limits set forth in such section;

"(C) failure to withhold Federal financial assistance in accordance with paragraph (3)(C) of such section; and

"(D) failure to implement an approved plan in accordance with such section."

(6) Section 505 of the Clean Water Act (33 U.S.C. 1365) is amended—

(A) in the second sentence of subsection (a) by inserting "or to enforce a requirement described in subsection (a)(3)" after "may be,";

(B) in subsection (b) by inserting after paragraph (2) the following new paragraph:

"(3) under subsection (a)(3) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator or the State, as the case may be,"; and

(C) in subsection (h) by inserting "or where there is alleged a failure of the Administrator with respect to a plan of such State described in subsection (a)(3)" before the period.

(d) **CONTINUATION OF EXISTING REQUIREMENTS, CONSENT DECREES, AND PLANS.**—Any requirement or schedule established by the Clean Water Act, judicially approved consent decree established under section 309 or 505 of such Act (33 U.S.C. 1319, 1365), or control strategy, management program, or plan approved under sections 304(1), 319, or 320 of such Act (33 U.S.C. 1314(1), 1329, 1330) shall continue in effect according to its terms until repealed, terminated, amended, or modified by the Administrator or a court of competent jurisdiction.

#### SEC. 204. OUTSTANDING COASTAL RESOURCE WATERS.

(a) **DESIGNATION.**—Not later than 30 months after the date of the enactment of this Act and after periodic public nominations, notice, and public comment, each coastal State, acting through its water quality or coastal zone management authorities, as appropriate, shall designate as Outstanding Coastal Resource Waters those coastal waters which are under the jurisdiction of the State and which have particular ecological, recreational, or aesthetic value or biological significance, taking into account their fisheries and shellfish resources, their habitat, and their recreational uses. Coastal waters so designated may include coastal waters in or adjacent to—

- (1) an element of the National Park System;
- (2) a National Wildlife Refuge;
- (3) a National Marine Sanctuary or a National Estuarine Reserve;
- (4) a unit of the Coastal Barrier Resources System;
- (5) a State park, recreational area, or wildlife preserve of particular ecological significance; or
- (6) shellfish growing waters or fish spawning waters of particular significance.

(b) **IMPLEMENTATION.**—Each coastal State shall revise its continuing planning process developed pursuant to section 303(e) of the Clean Water Act (33 U.S.C. 1313(e)) to ensure that the coastal water quality and designated uses of Outstanding Coastal Resource Waters shall be protected, maintained, and, where appropriate, enhanced. In meeting this requirement, each coastal State shall—

- (1) either directly or working through local authorities, post major public access points to those waters to notify the public of their designation as Outstanding Coastal Resource Waters; and
- (2) ensure that the State implements an antidegradation policy for those waters which attains and maintains water quality and protects designated uses.

#### SEC. 205. COASTAL DISCHARGE CRITERIA.

(a) **ILLEGAL DISCHARGES.**—Section 301(a) of the Clean Water Act (33 U.S.C. 1311(a)) is amended by inserting "403," after "402,".

(b) **DISCHARGE CRITERIA.**—Subsections (a) and (b) of section 403 of the Clean Water Act (33 U.S.C. 1343) are amended to read as follows:

"(a) Except in compliance with the guidelines issued under subsection (c), no permit may be issued or renewed under section 402 for a discharge into—

- "(1) the territorial sea;
- "(2) the waters of the contiguous zone;
- "(3) the oceans; or
- "(4) estuaries nominated under section 320.

"(b) Section 402(d) may not be waived for permits for discharges into estuaries nominated under section 320 or the territorial sea."

(c) **GUIDELINES.**—Subsection (c)(1) of section 403 of the Clean Water Act (33 U.S.C. 1343(c)(1)) is amended by striking "and the oceans" and inserting ", the oceans, and estuaries nominated under section 320".

(d) **REVIEW AND REVISION OF GUIDELINES.**—Not later than 18 months after the date of the enactment of this Act, the Administrator shall review and revise the guidelines required under section 403(c) of the Clean Water Act (33 U.S.C. 1343(c)) to prevent the degradation of coastal water quality and to reflect changes made by this Act.

#### SEC. 206. MARINE SANITATION DEVICES.

(a) **MUNICIPAL ENFORCEMENT.**—Section 312(k) of the Clean Water Act (33 U.S.C. 1322(k)) is amended—

- (1) by inserting "(1)" after "(k)";
- (2) by inserting "or political subdivisions thereof" after "the States"; and
- (3) by adding at the end the following:

"(2)(A) A Governor may request in writing that the Secretary of the department in which the Coast Guard is operating enter into, and the Secretary may enter into,

a cooperative agreement with the Governor that will authorize the State or its political subdivisions to enforce the requirements of this section. The request shall be accompanied by whatever additional documentation the Secretary considers necessary to assess the ability of the State or its political subdivisions to enforce this section fairly and efficiently.

"(B) The Secretary shall respond to a written request of a Governor under this paragraph not later than 180 days after receiving the request. If the Secretary denies the request, the Secretary shall describe fully the reasons for the denial and provide the Governor an opportunity to revise the request to the satisfaction of the Secretary.

"(C) If the Secretary enters into an agreement with a Governor under this subsection (including a cooperative agreement under this paragraph), such agreement shall authorize the State or its political subdivisions to assess the penalties authorized by this section. Any penalties so assessed shall be retained by the State or a political subdivision thereof to further the purposes of this section.

"(3) Nothing in this section shall be construed as prohibiting or otherwise limiting the authority of a State to adopt and enforce more stringent requirements than those contained in this section."

(b) **NOTIFICATION.**—Within one year after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service and the Administrator shall notify in writing the fish and game and the water pollution control authorities of each coastal State of the availability of funds under section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), popularly known as the Dingell-Johnson Sport Fish Restoration Act, to finance the establishment and improvement of shoreside pumpout stations for marine sanitation devices in conjunction with an approved Federal aid project. Such notification shall include—

(1) a description of the availability of funds in the Sport Fish Restoration Account for such purposes;

(2) a projection of the apportionments on a State-by-State basis under such program for the succeeding 5 years;

(3) guidance relating to the types of pumpout facilities that may be appropriate;

(4) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(5) such other information that the Secretary considers suitable to promote the establishment of shoreside pumpout facilities to reduce sewage discharges from vessels and protect coastal waters.

(c) **FACILITIES STUDY.**—The Environmental Protection Agency and the Coast Guard are directed to conduct a study which would identify the number of operational pumpout facilities in each State, offer recommendations for the number of operational pumpout facilities that are needed to handle marine sanitation devices in each State, and identify the type of marinas and ports where they should be located and report to Congress on the results of the study not later than 1 year after the date of the enactment of this Act.

#### SEC. 207. NONPOINT SOURCE COASTAL POLLUTION CONTROL MEASURES.

(a) **IDENTIFICATION.**—The Administrator, in consultation with the National Oceanic and Atmospheric Administration, the United States Fish and Wildlife Service, and other Federal agencies, shall after notice and public comment—

(1) identify pollution control measures, including best management practices, that may be suitable for reducing or controlling the introduction of pollutants into coastal waters from various classes or categories of nonpoint sources;

(2) develop techniques for evaluating the effectiveness of those measures, based upon the best scientific information available, that will provide a reasonable basis for making quantitative estimates of the pollution reduction effects of those measures; and

(3) develop and make available to State and local authorities the technical guidance and capabilities to implement and monitor those measures as may be necessary to achieve and maintain coastal water quality.

(b) **EVALUATION TECHNIQUES.**—Pollution control measures identified by the Administrator under subsection (a) shall include—

(1) a detailed description of the methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each control measure;

(2) a determination of the estimated cost of implementing each such measure;

(3) a description of the categories and subcategories of activities for which each measure may be suitable;

(4) a detailed identification of the individual pollutants or water quality impacts that may be affected by the measures;

(5) a reliable method to make quantitative estimates of the pollution reduction effects of the measures; and

(6) the necessary monitoring requirements to accompany the measures to assess over time the success of the measures in reducing pollution loads.

(c) **REBUTTABLE PRESUMPTION.**—Any determination of the pollution reduction effects of pollution control measures identified pursuant to this section shall have the force and effect of a rebuttable presumption in any administrative or judicial proceeding under this Act or the Clean Water Act.

#### SEC. 208. NATIONAL ESTUARY PROGRAM.

(a) **ADDITION OF ST. JOHNS RIVER ESTUARY, FLORIDA, AND MORRO BAY, CALIFORNIA.**—Section 320(a)(2)(B) of the Clean Water Act (33 U.S.C. 1330(a)(2)(B)) is amended by striking "and" the last place it appears and by inserting before the period at the end the following: "St. Johns River Estuary, Florida; and Morro Bay, California".

(b) **MANAGEMENT PLANS.**—Section 320(b)(4) of the Clean Water Act (33 U.S.C. 1330(b)(4)) is amended by inserting ", within 5 years after the date on which the management conference is convened," after "plan".

(c) **MANAGEMENT CONFERENCES.**—Section 320(e) of the Clean Water Act (33 U.S.C. 1330(e)) is amended to read as follows:

"(e) **PERIOD OF CONFERENCE.**—A management conference convened under this section shall be convened for a period of at least 10 years. The Administrator may extend a conference after that period for an additional 5 years if the affected Governor or Governors concur in the extension and the extension is necessary to meet the requirements of this section."

(d) **APPROVAL AND IMPLEMENTATION OF CONSERVATION AND MANAGEMENT PLANS.**—Section 320(f) of the Clean Water Act (33 U.S.C. 1330(f)) is amended to read as follows:

"(f) **APPROVAL AND IMPLEMENTATION OF PLANS.**—

"(1) **APPROVAL.**—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve the plan if—

"(A) it meets the requirements of this section;

"(B) it specifies the implementation responsibilities, including funding responsibilities and implementation schedules, of the Federal Government and of State and local governments that participated in development of the plan; and

"(C) the affected Governor or Governors concur.

"(2) **IMPLEMENTATION.**—Upon approval of a conservation and management plan under this section, the Administrator shall ensure that the Federal responsibilities and commitments under the plan are complied with and implemented. The Administrator, in conjunction with the management conference, shall—

"(A) oversee and provide assistance to the management conference for implementation of the plan;

"(B) coordinate Federal and State programs necessary for implementing the plan;

"(C) make recommendations to the management conference on enforcement and technical assistance activities necessary to ensure compliance with and implementation of the plan;

"(D) collect and make available to the public publications and other forms of information relating to implementation of the plan;

"(E) make plan implementation grants under subsection (g); and

"(F) provide administrative and technical support to the management conference.

"(3) **FUNDING.**—Funds authorized to be appropriated under section 607, section 319, and subsection (i)(2) of this section may be used in accordance with the applicable requirements of this Act to assist States with the implementation of a conservation and management plan under this section."

(e) **GRANTS.**—Section 320(g) of the Clean Water Act (33 U.S.C. 1330(g)) is amended to read as follows:

"(g) **GRANTS.**—

"(1) **RECIPIENTS.**—The Administrator may make grants under this subsection to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) **PURPOSES.**—Grants under this subsection shall be made for—

"(A) development of conservation and management plans under this section, including research, surveys, studies, modeling, and other technical work necessary for the development of a plan; and

"(B) implementation of conservation and management plans, including any additional research, planning, enforcement, and citizen involvement and education activities necessary to improve plan implementation.

**"(3) FEDERAL SHARE.—**

"(A) **IN GENERAL.—**The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of development of conservation and management plans and 50 percent of the costs of implementation of such plans.

"(B) **NON-FEDERAL SHARE.—**All grants under this subsection shall be made on the condition that the non-Federal share of the costs of activities carried out with the grants are provided from non-Federal sources."

(f) **AUTHORIZATION.—**Section 320(i) of the Clean Water Act (33 U.S.C. 1330(i)) is amended to read as follows:

"(i) **AUTHORIZATION OF APPROPRIATIONS.—**There is authorized to be appropriated to the Administrator—

"(1) not to exceed \$20,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, for—

"(A) expenses related to the administration of management conferences under this section, except that not more than 10 percent of amounts appropriated under this paragraph may be used for that purpose; and

"(B) making conservation and management plan development grants under subsection (g)(2)(A); and

"(2) not to exceed \$20,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, for making conservation and management plan implementation grants under subsection (g)(2)(B)."

(g) **LONG ISLAND SOUND CONSERVANCY.—**Notwithstanding any other provision of law and within one year after the date of the enactment of this Act, the Administrator shall establish an office in the immediate vicinity of Long Island Sound to carry out the approved Long Island Sound conservation and management plan in accordance with the responsibilities of the Administrator under section 320(f)(2) of the Clean Water Act (as amended by this Act).

(h) **DESIGNATION.—**Notwithstanding any other provision of law, Massachusetts Bay, Massachusetts (including Cape Cod Bay), is hereby designated as an estuary of national significance for purposes of section 320 of the Clean Water Act (33 U.S.C. 1330). The Administrator shall make available to the management conference established for that estuary an appropriate pro rata share of the funds appropriated for implementing that section.

**SEC. 209. CHESAPEAKE BAY PROGRAM.**

Section 117(d) of the Clean Water Act (33 U.S.C. 1267(d)) is amended in each of paragraphs (1) and (2) by inserting after "1990" the following: "and such sums as may be necessary for fiscal years 1991 and 1992".

**SEC. 210. EXISTING PROVISION NOT AFFECTED.**

Nothing in this Act (including the amendments made by this Act)—

- (1) amends, repeals, supercedes, or otherwise affects the application of section 214(g) of the Caribbean Basin Economic Recovery Act (33 U.S.C. 1311 note); or
- (2) otherwise applies to a discharge described in that section.

**SEC. 211. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.**

(a) **REPORT.—**Within 90 days after the date of the enactment of this Act, the Administrator shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

(b) **PLAN.—**Within 180 days after the date of the enactment of this Act, the Secretary of the Army and the Administrator shall submit to the Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

- (1) an identification of the source, quantities, and characteristics of material to be dredged;
- (2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;
- (3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

(c) **DEMONSTRATION PROJECT.**—The Secretary of the Army, in consultation with the Administrator, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) **DREDGED MATERIAL WHICH MAY BE DUMPED AT MUD DUMP SITE.**—Notwithstanding section 103(d) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413(d)), only dredged material that meets the criteria of section 102(a) of such Act (33 U.S.C. 1412(a)) may be dumped at the Mud Dump Site.

(e) **MUD DUMP SITE DEFINED.**—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5 3/4 miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of the Army for fiscal year 1991, \$500,000 to implement subsection (b) and \$1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(g) **REPEAL.**—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

#### SEC. 212. MARINE COMBINED SEWER OVERFLOWS.

Section 304 of the Clean Water Act (33 U.S.C. 1314) is amended by adding at the end the following new subsection:

"(o) **MARINE COMBINED SEWER OVERFLOWS.**—For the purposes of adopting or revising effluent limitations for marine combined sewer overflows under this Act, the Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish not later than 1 year after the date of the enactment of this subsection regulations to require screening or other interim measures to control floatables in marine combined sewer overflow discharges."

#### SEC. 213. DEMONSTRATION PROJECTS TO CONTROL NONPOINT SOURCES OF POLLUTION ENTERING COASTAL WATERS.

(a) **NAVESINK AND SHREWSBURY RIVER BASIN, NEW JERSEY.**—The Administrator is authorized to conduct, in the 5-year period beginning on the date of the enactment of this Act, a demonstration project for the control of nonpoint sources of pollution entering coastal waters from Navesink and Shrewsbury River Basin, New Jersey. Such project shall include measures to reduce bacteria levels, control agricultural runoff, and control and reduce sediments and nutrients. The Non-Federal share of the costs of activities conducted in connection with the project is 50 percent.

(b) **WOODLAWN BEACH, HAMBURG, NEW YORK.**—The Administrator is authorized to undertake a demonstration project to eliminate contamination of the waters in the vicinity of Woodlawn Beach, Hamburg, New York, from nonpoint sources of pollution resulting from surface runoff and septic system contamination entering Rush and Bladell Creeks. Such project shall include control of sources of pollution, relocation of Rush and Bladell Creeks, and construction of a settling pond. The non-Federal share of the cost of such project shall be 50 percent.

#### SEC. 214. PROHIBITION AGAINST BURNING OF WOOD ON OCEAN WATERS.

Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended by adding at the end the following new subsection:

"(f) **BURNING OF WOOD ON OCEAN WATERS.**—

"(1) **PROHIBITION AGAINST ISSUANCE OF PERMITS AFTER DECEMBER 31, 1991.**—After December 31, 1991, the Administrator may not issue any permit under this section which authorizes a person to burn, or to transport for the purpose of burning, wood on ocean waters.

"(2) VALIDITY OF PERMITS ISSUED ON OR BEFORE DECEMBER 31, 1991.—Any permit issued on or before December 31, 1991, which authorizes a person to engage in an activity described in paragraph (1) shall not be valid after December 31, 1991."

#### SEC. 215. PUGET SOUND WATER QUALITY IMPROVEMENT.

Title I of the Clean Water Act (33 U.S.C. 1251-1268) is amended by adding at the end the following new section:

##### "SEC. 119. PUGET SOUND.

"(a) GRANT AUTHORITY.— At the request of the Governor of the State of Washington, the Administrator shall make a grant to the State of Washington Puget Sound Water Quality Authority or its successor (hereinafter in this section referred to as the 'Authority') for use by the Authority or its successor in—

"(1) implementing and updating the Puget Sound Water Quality Management Plan;

"(2) implementing a program for ambient monitoring of the water quality of Puget Sound, including sampling and analysis of the sediment, water quality, and plant and animal populations and habitats of Puget Sound and its freshwater tributaries;

"(3) supporting research that will increase understanding of Puget Sound, its ecological systems, and the significance of human impacts on the Puget Sound; and

"(4) conducting other activities related to improving the water quality of Puget Sound.

"(b) SUBMISSION OF PROPOSAL.—In order to receive a grant under this section, the Governor of the State of Washington shall submit to the Administrator a comprehensive proposal for using the proceeds of such grant for carrying out the purposes for which such grant is being sought, including (1) a description of proposed actions which the State commits to take within a specified time period to reduce pollution in Puget Sound and to meet applicable water quality standards, and (2) the estimated cost of the actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(c) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the total costs of activities to be carried out in a fiscal year with the proceeds of such grant and shall be made on condition that non-Federal sources provide the remainder of the cost of such activities in such fiscal year.

"(d) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this section shall not exceed in any one fiscal year 10 percent of the annual Federal grant made under this section.

"(e) TERMS AND CONDITIONS.—Grants made under this section shall be subject to such terms and conditions as the Administrator considers appropriate.

"(f) REPORTS.—The Authority shall, within 18 months after the date of receipt of a grant under this section and biennially thereafter, report to the Administrator on the progress made in carrying out the activities for which the grant is made. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not more than \$8,000,000 per fiscal year for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under this section. Such sums shall remain available until expended."

## TITLE III—COASTAL MANAGEMENT

#### SEC. 301. PURPOSES:

The purposes of this title are the following:

(1) To strengthen the regulatory and administrative links between coastal zone management and water quality programs at the Federal and State levels, particularly for the control of land and water uses which, individually or cumulatively, may impair coastal water quality.

(2) To encourage each State coastal zone management program to promote sound management of land uses which affect coastal water quality and coastal

habitat, particularly from the cumulative effects of coastal development, through the adoption and implementation of a Coastal Water Quality Protection and Improvement Plan in accordance with the amendments made by this title.

(3) To expand State and local authorities, capabilities, and incentives to protect critical coastal areas and to restore degraded coastal habitats, including degraded coastal waters, where those habitats and waters are adversely affected by coastal land use.

**SEC. 302. COASTAL ZONE MANAGEMENT ACT OF 1972 AMENDMENTS.**

(a) **FINDINGS.**—Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended by adding at the end the following:

“(k) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.”

(b) **POLICY.**—Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)) is amended—

(1) by striking the period at the end of subparagraph (B) and inserting a comma;

(2) by redesignating subparagraphs (C), (D), (E), (F), (G), (H), and (I), and any reference thereto, as subparagraphs (D), (E), (F), (G), (H), (I), and (J), respectively; and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) the management of coastal development to protect the quality of coastal waters and to prevent the impairment of existing uses of those waters.”

(c) **PROTECTING AND RESTORING COASTAL WATER QUALITY.**—The Coastal Zone Management Act of 1972 is amended by inserting after section 306A (16 U.S.C. 1455a) the following:

**\*SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.**

“(a) **IN GENERAL.**—

“(1) **PROGRAM DEVELOPMENT.**—Not later than 3 years after the effective date of this section, the management agency chosen pursuant to section 306(c)(5) by each State for which a program has been approved pursuant to section 306 (hereinafter in this section referred to as the ‘coastal management agency’) shall prepare and submit to the Under Secretary and the Administrator an Aquatic Resources Protection Program (hereinafter in this section referred to as the ‘program’) for approval pursuant to subsection (c). The purpose of the program shall be for the management agency, working in close conjunction with other State and local authorities, to develop and implement measures for managing land uses which cause or contribute to the pollution or degradation of coastal waters.

“(2) **PROGRAM COORDINATION.**—The program shall be developed, submitted, and implemented in conjunction with and as a part of the comprehensive coastal water quality protection program under section 304(n) of the Federal Water Pollution Control Act. In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality authorities. Each program shall be integrated with the State’s coastal water quality program under section 304(n) of the Federal Water Pollution Control Act, shall be compatible and coordinated with the programs developed pursuant to sections 208, 303, 319, and 320 of that Act, shall incorporate any applicable requirements adopted by the State under that Act or any more stringent water quality requirements adopted pursuant to State law, and shall be coordinated with applicable State water rights requirements.

“(b) **PROGRAM CONTENTS.**—The Under Secretary and the Administrator shall approve a program under this section if it provides for the following:

“(1) **IDENTIFYING LAND USES.**—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

“(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes;

“(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources from land uses; or

“(C) Outstanding Coastal Resource Waters designated pursuant to section 204 of the Coastal Defense Initiative of 1990.

"(2) IDENTIFYING CRITICAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to the land use management measures that are determined by the coastal management agency, in cooperation with the State water quality authority and other State or local authorities, as appropriate, to be necessary to protect and restore coastal water quality and designated uses.

"(3) COASTAL LAND USE MANAGEMENT MEASURES.—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal management agency, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

"(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

"(i) pollution control measures identified under section 207(a)(1) of the Coastal Defense Initiative of 1990;

"(ii) buffer strips;

"(iii) setbacks;

"(iv) density restrictions;

"(v) techniques for identifying and protecting critical coastal areas and habitats;

"(vi) soil erosion and sedimentation control; and

"(vii) siting and design criteria for water uses, including marinas.

"(4) TECHNICAL ASSISTANCE.—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations; technical guidance and modeling to predict and assess the effectiveness of such measures; training; financial incentives; demonstration projects; and other innovations to protect coastal water quality and achieve and maintain designated uses.

"(5) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means and measures.

"(6) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project reviews, interagency certifications, memoranda of agreements, and other mechanisms.

"(7) STATE COASTAL ZONE BOUNDARY MODIFICATION.—Modification of the boundaries of the State coastal zone as the State determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to section 303. If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

"(c) PROGRAM SUBMISSION AND APPROVAL.—

"(1) PROCEDURES.—The submission and approval of a proposed program under this section shall be governed by the procedures established by section 306(g).

"(2) ELIGIBILITY FOR AND WITHDRAWAL OF ASSISTANCE.—(A) Except as provided in subparagraph (B), if the Under Secretary and the Administrator find that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a portion of grants otherwise available to such State under section 306 of this Act as follows:

"(i) 10 percent after 3 years after the date of the enactment of this section.

"(ii) 15 percent after 4 years after the date of the enactment of this section.

"(iii) 20 percent after 5 years after the date of the enactment of this section.

"(iv) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this subparagraph available to States having programs approved under this section.

"(B) If the Under Secretary and the Administrator find that a State has made satisfactory progress in developing a program under subsection (a) and that additional time is required for the State to complete necessary statutory or regulatory changes to develop the program, the Under Secretary and the Administrator may authorize no more than 3 additional years for the State to comply with this section.

"(3) GUIDELINES.—Within 180 days after the effective date of this section, the Under Secretary and the Administrator shall issue guidelines for coastal States to follow in developing a program. Within 18 months after that effective date, the Under Secretary and the Administrator shall promulgate regulations governing the receipt, review, and approval of programs under this section.

"(d) TECHNICAL ASSISTANCE.—The Under Secretary and the Administrator, in consultation with the heads of other Federal agencies, shall each provide technical assistance to States and local governments in developing and implementing programs under this section. The Under Secretary and the Administrator shall coordinate the provision of technical assistance with the guidance provided by the Administrator under section 207 of the Coastal Defense Initiative of 1990. Such assistance shall include—

"(1) methods for assessing water quality impacts associated with coastal land uses;

"(2) methods for assessing the cumulative water quality effects of coastal development;

"(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to State and local governments in identifying, developing, and implementing pollution control measures; and

"(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

"(e) FINANCIAL ASSISTANCE.—From amounts appropriated pursuant to section 603(c)(1)(B) of the Coastal Defense Initiative of 1990, the Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contributions.

"(f) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere."

(d) CONFORMING AMENDMENTS.—Sections 306(a)(3), 306A(a)(1)(B), 312(a), and 312(c)(1) of such Act are each amended by striking "(I)" and inserting "(J)".

#### SEC. 303. INLAND BOUNDARIES OF COASTAL ZONES.

(a) REVIEW.—Within 18 months after the date of the enactment of this Act, the Under Secretary and the Administrator shall review the inland boundary of the coastal zone of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) and evaluate whether the boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(b) RECOMMENDATION.—If the Under Secretary and the Administrator find that modifications to the inland boundary of a State's coastal zone are necessary for that State to more effectively manage land and water uses in order to protect coastal waters, the Under Secretary shall recommend appropriate modifications in writing to the State.

#### SEC. 304. COORDINATION WITH NATIONAL ESTUARY PROGRAM.

Each State agency designated under section 306(c)(5) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)(5)) shall nominate a representative of the agency for appointment by the Administrator to an appropriate position on any management conference convened under section 320 of the Clean Water Act (33 U.S.C. 1330) for waters lying wholly or partially within the jurisdiction of the State.

## TITLE IV—COASTAL WATER QUALITY MONITORING PROGRAM

### SEC. 401. PURPOSE.

The purpose of this title is to establish long-term water quality monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters.

### SEC. 402. NATIONAL COASTAL WATER QUALITY MONITORING PROGRAM.

(a) **NATIONAL STRATEGY.**—The Administrator, in consultation with the Under Secretary, the Director of the United States Fish and Wildlife Service, the Secretary of the Army, the Governors of the States, and representatives of the scientific community, shall—

- (1) develop and implement a national strategy for conducting coastal water quality monitoring programs in accordance with this title;
- (2) identify all Federal water quality monitoring programs applicable to coastal waters and, to the maximum extent possible, incorporate those programs into the national strategy;
- (3) develop a memorandum of understanding among appropriate Federal agencies no later than one year after the date of the enactment of this Act, which shall outline a process for implementing the national strategy at the Federal level;
- (4) develop national monitoring guidelines in accordance with section 403;
- (5) select high priority coastal waters in each coastal region that should be designated as high priority coastal waters and for which individual monitoring plans should be developed under this subsection, taking into account the identification of impaired coastal waters made pursuant to section 304(n) of the Clean Water Act or section 306B of the Coastal Zone Management Act of 1972; and
- (6) provide for the maximum coordination of Federal monitoring activities with coastal water quality monitoring programs developed under this title.

(b) **MONITORING PROGRAMS.**—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Governor of each State in each coastal region shall—

- (1) develop a coastal water quality monitoring program for each area designated as high priority coastal waters by the Administrator in accordance with subsection (a);
- (2) provide for public participation in the development and implementation of the monitoring programs;
- (3) provide technical guidance for the implementation of the monitoring programs;
- (4) review from time to time the effectiveness of the monitoring programs in meeting their objectives and make whatever modifications as may be necessary; and
- (5) issue from time to time a report on the general status of coastal water quality within the region.

(c) **COASTAL WATER QUALITY MONITORING PROGRAMS.**—Each coastal water quality monitoring program developed under this section shall—

- (1) clearly state the goals and objectives of the monitoring program and their relationship to the water quality regulatory objectives for the waterbody;
- (2) identify the water quality and living resource parameters of the monitoring program and their relationship to these goals and objectives;
- (3) describe the types of monitoring networks, surveys, and other activities to achieve these objectives, using where appropriate the guidelines issued under section 403;
- (4) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the waters to which the program applies, describe the relationship of the program to these other monitoring activities, and integrate them, as appropriate, into the monitoring program;
- (5) describe the data management and quality control components of the program;
- (6) specify the implementation requirements for the program, including—
  - (A) the lead State or regional authority which will administer the monitoring program;

(B) the public and private parties, including all discharges into the waters covered by the monitoring program, which will be required to implement the program, and a detailed schedule for its implementation;

(C) all Federal and State responsibilities for implementing the program; and

(D) the changes in Federal, State, and local programs necessary to implement the monitoring program;

(7) estimate the costs to Federal, State, and local participants, of implementing the monitoring program;

(8) describe the technical guidance that shall be provided to those responsible for implementing the program; and

(9) describe the methods to assess periodically the success of the monitoring program in meeting its objectives, and the manner in which the program may be modified from time to time.

(d) **FUNDING.**—(1) Coastal water quality monitoring programs approved under this subsection may be implemented with amounts made available under section 603.

(2) The Administrator shall not approve any proposed coastal water quality monitoring program under this section unless participating States provide at least 25 percent of the estimated cost of implementing the program.

(e) **REPORTING.**—Not later than 2 years after the date of the enactment of this Act and triennially thereafter, the Administrator shall transmit to Congress a report summarizing the efforts undertaken to fulfill the requirements of this title and the status of the monitoring programs developed under this section.

#### SEC. 403. MONITORING GUIDELINES.

(a) **IN GENERAL.**—Not later than 18 months after the date of the enactment of this Act, the Administrator, in consultation with the Under Secretary, the Director of the United States Fish and Wildlife Service, the Secretary of the Army, the Governors of the States, and representatives of the scientific community, shall issue guidelines to assist in the development and implementation of coastal water quality monitoring programs under section 402. These guidelines shall—

(1) seek to provide an appropriate degree of uniformity among the coastal water quality monitoring programs while preserving the flexibility of each monitoring program to address local needs;

(2) include guidance for establishing monitoring programs that will—

(A) identify and quantify the severity of existing or anticipated problems in coastal water quality; and

(B) identify and quantify sources of pollution that cause or contribute to those problems; and

(3) evaluate over time the effectiveness of efforts to reduce or eliminate those sources.

(b) **TECHNICAL PROTOCOLS.**—Guidelines issued under subsection (a) shall include, but not be limited to, protocols for—

(1) designing monitoring networks and monitoring surveys;

(2) sampling and analysis, including appropriate physical and chemical parameters, living resources parameters, and sediment analysis techniques; and

(3) intercalibration, quality assessment, quality control, and data management.

(c) **PERIODIC REVIEW.**—The Administrator shall periodically review and report on the guidelines issued under this section, to evaluate their effectiveness, the degree to which they continue to provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines.

#### SEC. 404. COMPLIANCE AND ENFORCEMENT.

(a) **ENFORCEMENT.**—(1) The Administrator and the Governor of each participating State shall ensure compliance with a coastal water quality monitoring program developed under section 402.

(2) The requirements of a coastal water quality monitoring program developed under section 402—

(A) are deemed to be requirements of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 for purposes of section 105 of that Act (33 U.S.C. 1415); and

(B) shall be submitted for approval as part of any relevant coastal zone management program under section 306(g) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(g)).

(b) **INCORPORATION INTO DISCHARGE PERMITS.**—The Administrator or a State permitting authority shall, upon the development of a coastal water quality monitoring

program under section 402 and after notice and opportunity for public comment, incorporate into the appropriate discharge permits the applicable monitoring requirements specified by the program. The incorporation is deemed to be a minor modification of such permit.

#### SEC. 405. COMBINED SEWER OVERFLOW INVENTORY.

Not later than 2 years after the date of the enactment of this Act, the Administrator, based on information provided by the States, shall transmit to Congress a report containing a list of combined sewer overflows from which discharges into the waters of the United States occur, including the location of such overflows, the amount and nature of such discharges, and the effects of such discharges on water quality.

## TITLE V—COMPLIANCE AND ENFORCEMENT

#### SEC. 501. PURPOSE.

The purpose of this title is to increase compliance with Federal and State water pollution control requirements for coastal areas, by strengthening—

- (1) the sanctions for noncompliance;
- (2) penalties so as to create economic incentives for complying with Federal coastal pollution control laws.

#### SEC. 502. FEDERAL PROCUREMENT.

(a) IDENTIFICATION OF VIOLATORS.—The Administrator shall identify and provide to Federal agencies a list of those persons introducing pollutants into coastal waters who have been found by the Administrator, in consultation with appropriate State permitting authorities, to be—

- (1) in significant noncompliance with discharge permits issued pursuant to section 402 of the Clean Water Act (33 U.S.C. 1342) by the Administrator or a State permitting authority;
- (2) in significant noncompliance with requirements established by an approved management program developed pursuant to section 319 of the Clean Water Act (33 U.S.C. 1329); or
- (3) in significant noncompliance with comprehensive conservation and management plan approved under section 320 of the Clean Water Act (33 U.S.C. 1330).

The Administrator shall revise this list annually.

(b) ELIGIBILITY FOR FEDERAL CONTRACTS.—No Federal agency may enter into any contract with any person included in a list under subsection (a), for the procurement of goods, materials, or services, if the contract is to be performed at any facility which gave rise to the finding made by the Administrator under subsection (a) and which is owned, leased, operated, or supervised by that person.

(c) DURATION OF PROHIBITION.—The prohibition in subsection (b) shall continue in effect for a person until the Administrator certifies that the condition giving rise to the finding in subsection (a) has been corrected.

(d) REGULATIONS.—Each Federal agency shall review and revise its procurement procedures and regulations as necessary to implement the requirements of this title.

#### SEC. 503. LIMITATIONS ON FEDERAL DEVELOPMENT PROJECTS AND FINANCIAL ASSISTANCE.

(a) FEDERAL PROJECTS AND ASSISTANCE.—Except as provided in subsection (e), no Federal agency may undertake any development project, or award any grant for any activity, that may adversely affect coastal water quality, in any coastal State which the Administrator finds, under regulations issued after notice and public comment, has demonstrated a pattern of substantial and willful failure to adopt, attain, and maintain coastal water quality standards and protect designated uses for coastal waters of the State in accordance with this Act and the Clean Water Act.

(b) IDENTIFICATION OF VIOLATORS.—The Administrator shall provide annually to the heads of all affected agencies the information necessary to implement subsection (a).

(c) DURATION OF PROHIBITION.—The prohibition in subsection (a) shall continue in effect with respect to a coastal State or an area until the Administrator certifies to the coastal State and affected Federal agencies that the conditions giving rise to the finding made pursuant to subsection (a) with respect to that State or area have been corrected and the applicable coastal water quality standards are being achieved.

(d) REGULATIONS.—(1) The Administrator shall promulgate regulations, after notice and public comment, that identify the types of development projects or grants that are subject to the requirements of subsection (a).

(2) After the issuance of regulations under paragraph (1), each Federal agency which administers development projects or grants that are subject to this section shall review and revise as necessary their procedures and regulations governing those projects or grants to comply with the requirements of this section.

(e) EXCEPTION.—Subsection (a) shall not apply to any Federal development project or grant—

(1) the direct and principal purpose of which relates to public health, public safety, or improvement of coastal water quality as determined by the Administrator in consultation with other affected Federal agencies; or

(2) that the President determines to be in the paramount interest of the United States to carry out.

#### SEC. 504. FEDERAL FACILITY COMPLIANCE.

Section 313 of the Clean Water Act shall apply to any substantive or procedural requirement of this Act against any Federal department, agency, or instrumentality discharging pollutants into coastal waters.

#### SEC. 505. ELIMINATION OF ECONOMIC INCENTIVES.

(a) PENALTIES UNDER THE CLEAN WATER ACT.—Section 309 of the Clean Water Act (33 U.S.C. 1319) is amended by adding at the end the following:

“(h) Notwithstanding any limitation on the amount of a penalty under this section, any penalty assessed by the Administrator or a court in a civil action against a person discharging pollutants into coastal waters for a violation of applicable effluent limitations or other permit requirements shall, where possible, be in an amount adequate to eliminate any economic benefit or savings, including interest, that may have accrued to that person as a result of the violation.”

(b) PENALTIES UNDER THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.—Section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is amended by adding at the end the following:

“(i) Notwithstanding any limitation on the amount of a penalty under this section, in assessing any penalty in a civil action for a violation under this section, the Administrator or the court shall seek where possible to assess a penalty in an amount sufficient to eliminate any economic benefit or savings, including interest, that may have accrued to the violator as a result of the violation.”

#### SEC. 506. POSTING OF COASTAL WATERS.

(a) REQUIREMENTS.—Each State that has coastal waters within its boundaries that do not meet applicable water quality standards or do not protect or maintain designated uses shall, either directly or through local authorities, post and maintain clearly visible signs at major places of public access to those waters (including public roads, public beaches, public parks, public recreation areas, and public marinas and boat launching areas) indicating the principal health and environmental effects that may occur as a result of the failure to meet those standards. The sign shall be maintained until the particular body of water is in compliance with all applicable water quality standards.

(b) GUIDANCE.—Within 6 months after the date of the enactment of this Act, the Administrator shall issue guidance to States on the requirements of subsection (a).

#### SEC. 507. ENFORCEMENT.

Any violation of the requirements of this Act is deemed to be a violation of the Clean Water Act.

#### SEC. 508. OCEAN DUMPING ENFORCEMENT.

Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended as follows:

(1) Section 101(a) (33 U.S.C. 1411(a)) is amended—

(A) by inserting “any material” after “no person shall transport” in paragraphs (1) and (2);

(B) by inserting “for any purpose that includes dumping it into ocean waters or dump any material into ocean waters” after “from the United States” in paragraph (1);

(C) by inserting “for any purpose that includes dumping it into ocean waters or dump any material into ocean waters” at the end of paragraph (2); and

(D) by striking “any material for the purpose of dumping it into ocean waters”.

(2) Section 102 (33 U.S.C. 1412) is amended by adding at the end the following:

"(g) The Administrator may deny the issuance of permits under this section for the dumping of material which does not comply with the criteria established under subsection (a) relating to the effects of ocean dumping on the marine environment."

(3) Section 105 (33 U.S.C. 1415) is amended in subsection (a) by striking "\$50,000 for each violation to be assessed by the Administrator" and inserting "\$75,000 for each violation to be assessed by the Administrator, except the maximum amount of any penalty under this paragraph shall not exceed \$200,000".

(4) Section 105 (33 U.S.C. 1415) is amended by adding at the end the following:

"(j) From the sums recovered as penalties or fines under this title, the Administrator may permit the payment of no more than \$10,000 to any person who furnished information which leads to an administrative finding of liability, civil judgment, or criminal conviction under this title."

## TITLE VI—FUNDING

### SEC. 601. PURPOSES.

The purposes of this title are to establish a Coastal Defense Fund in the United States Treasury and authorize establishment of State coastal protection funds to preserve and protect coastal water quality.

### SEC. 602. COASTAL DEFENSE FUND.

(a) **ESTABLISHMENT OF FUND.**—(1) There is hereby established in the Treasury of the United States a fund, to be known as the "Coastal Defense Fund", consisting of such amounts as may be deposited into it or transferred to it pursuant to this title. Amounts in the Fund shall remain available until expended, subject to appropriation, to carry out section 603.

(2) The Secretary of the Treasury shall invest such portion of the Fund as may remain unobligated in any fiscal year in interest-bearing obligations of the United States. The interest on, and the proceeds from the sale of, the interest-bearing obligations shall be deposited into and become a part of the Fund.

(b) **PAYMENTS INTO THE COASTAL DEFENSE FUND.**—Notwithstanding any other provision of law, the following amounts shall be credited to the Fund:

(1) Amounts required to be deposited into the Fund under section 604.

(2) Amounts required to be deposited into the Fund under section 605.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Fund \$150,000,000 per fiscal year less such amounts as are to be credited to the Fund under subsection (b) in such fiscal year.

### SEC. 603. STATE GRANTS.

(a) **ANNUAL GRANTS.**—The Administrator and the Under Secretary shall make annual grants from amounts in the Coastal Defense Fund allocated under subsection (c), to a coastal State that—

(1) establishes a coastal protection fund into which it will deposit grants under this section;

(2) agrees to make grants and other expenditures from that fund in accordance with the requirements of this section; and

(3) agrees to implement such periodic reporting and accounting procedures as the Administrator considers appropriate.

(b) **AMOUNT OF GRANTS.**—The amount of each grant to a State under this section shall be determined by the Administrator and the Under Secretary, taking into consideration, among other matters, the following:

(1) Identification by the State of coastal waters under section 304(n) of the Clean Water Act or section 204 of this Act.

(2) The extent and nature of development of the shoreline and area of the State's coastal zone.

(3) Existing and projected trends in population in the State's coastal zone.

(4) Participation by the State in the regional monitoring program under title IV of this Act.

(5) Participation by the State in a program approved pursuant to section 306B of the Coastal Zone Management Act of 1972.

(c) **ALLOCATION.**—(1) Amounts in the Coastal Defense Fund available for grants under this section shall be allocated as follows:

(A) 30 percent shall be used by the Administrator for grants to coastal States under subsection (b) for the following purposes:

(i) Developing, implementing, and enforcing Coastal Water Quality Protection Programs under section 304(n) of the Clean Water Act.

(ii) Identifying and implementing requirements for outstanding coastal resource waters pursuant to section 204 of this Act.

(B) 30 percent shall be used by the Under Secretary for grants to coastal States under subsection (b) for the purposes of preparing and implementing Aquatic Resources Protection Programs under section 306B of the Coastal Zone Management Act of 1972.

(C) 20 percent shall be used by the Administrator, in consultation with the Under Secretary, for grants to coastal States to implement regional monitoring programs authorized by title IV of this Act.

(D) 10 percent shall be used by each of the Administrator and the Under Secretary to fulfill the requirements of this Act.

(2) Within 6 months after the date of the enactment of this Act, the Administrator and the Under Secretary shall enter into an agreement to establish the mechanisms by which they will coordinate their responsibilities under this title so as to ensure the best overall use of the funds allocated under this subsection to maximize improvements in coastal water quality and achieve the purposes of this Act.

(3) Before making grants under this subsection to a coastal State, the Administrator or the Under Secretary, as appropriate, shall enter into an agreement with the State which describes how such grants will be used and how such grants will assist in achieving the objectives of this Act. Each agreement shall—

(A) prohibit the use of funds received by a State under this section, to supplant non-Federal funds that would otherwise be available for purposes described in this section;

(B) require that a coastal State shall expend annually for activities carried out with the grant an amount of non-Federal funds at least equal to such expenditures during the preceding fiscal year; and

(C) require the coastal State to contribute to activities funded with a grant under this section an amount from non-Federal sources equal to 25 percent of the total amount of grants to the State under this section for that activity.

#### SEC. 604. FINES, PENALTIES, AND OTHER PAYMENTS.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, any penalty, fine, or other payments assessed—

(1) pursuant to section 309 or 505 of the Clean Water Act (33 U.S.C. 1319, 1365) against a discharger into coastal waters; or

(2) under section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1375);

shall be deposited into the Coastal Defense Fund established under section 602.

(b) LIMITATION.—Subsection (a) does not apply to—

(1) amounts awarded as costs of litigation pursuant to section 505 of the Clean Water Act; or

(2) amounts reserved to finance environmental credit projects.

#### SEC. 605. OUTER CONTINENTAL SHELF REVENUES.

Notwithstanding any other provision of law, beginning with fiscal year 1991 and for each fiscal year thereafter, the Secretary of the Treasury shall deposit into the Coastal Defense Fund established under section 602 an amount equal to 10 percent of the amount by which—

(1) all sums deposited into the Treasury of the United States pursuant to sections 7 and 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336 and 1338) for such fiscal year; exceeded

(2) all sums deposited into the Treasury pursuant to sections 7 and 9 of that Act for fiscal year 1989.

Deposits under this section into the Coastal Defense Fund for a fiscal year shall be made not later than 60 days after the end of the fiscal year.

## TITLE VII—GREAT LAKES WATER QUALITY IMPROVEMENT

#### SEC. 701. SHORT TITLE.

This title may be cited as the "Great Lakes Water Quality Improvement Act of 1990".

#### SEC. 702. AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT.

(a) PURPOSES.—Subsection (a)(2) of section 118 of the Clean Water Act (33 U.S.C. 1268) is amended to read as follows:

"(2) PURPOSES.—The purposes of this section are as follows:

"(A) To achieve the goals of the Great Lake Agreement and to accelerate implementation of such Agreement through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such Agreement.

"(B) To promote a better understanding of the effects of toxic pollutants on the Great Lakes ecosystem and the food chain in the Great Lakes and the implications of such effects on human health.

"(C) To accelerate development of Great Lakes specific water quality standards.

"(D) To accelerate contaminant sediments cleanup in the Great Lakes."

(b) DEFINITIONS.—Subsection (a)(3) of such section is amended—

(1) by redesignating subparagraphs (C), (D), and (E), and any reference thereto, as subparagraphs (E), (F), and (G), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraphs:

"(C) 'Great Lakes Agreement' means the Great Lakes Water Quality Agreement of 1978 between the United States and Canada and any amendments thereto;

"(D) 'Great Lakes State' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;"

(c) SURVEILLANCE AND MONITORING.—Subsection (c)(1)(B) of such section is amended by inserting "including monitoring necessary to implement the Great Lakes Agreement," after "quality of the Great Lakes,"

(d) DEMONSTRATION PROJECTS.—Subsection (c)(3) of such section is amended—

(1) by striking "5-YEAR" and inserting "7-YEAR";

(2) by striking "five-year" and inserting "7-year"; and

(3) by inserting "Duluth Superior Harbor, Minnesota and Wisconsin;" after "Sheboygan Harbor, Wisconsin;"

(e) SPECIFIC WATER QUALITY STANDARDS; REMEDIAL ACTION AND LAKEWIDE MANAGEMENT PLANS.—Subsection (c) of such section is amended by redesignating paragraphs (5) and (6), and any reference thereto, as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) GREAT LAKES SPECIFIC WATER QUALITY STANDARDS.—

"(A) DEVELOPMENT AND PUBLICATION OF PROPOSED GUIDANCE.—Not later than 1 year after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in consultation with the Great Lakes States, shall develop in accordance with applicable provisions of section 304 of this Act and consistent with articles II and V and annex 1 of the Great Lakes Agreement and publish in the Federal Register—

"(i) proposed guidance for numerical limits on pollutant concentrations in the Great Lakes to protect human health and the biological integrity of the Great Lakes (including aquatic life and wildlife) for those pollutants (including pollutants listed in the 1986 Working List published in the 1987 Water Quality Board Report to the International Joint Commission) that the Administrator determines need such guidance and guidance described in clause (ii) because of their physical and chemical properties or because of physical and chemical properties of the Great Lakes; and

"(ii) proposed guidance for use by State and local governments with respect to implementing procedures (including control of point and non-point sources of pollution), antidegradation, and pollution prevention for pollutants for which the Administrator has developed guidance under clause (i).

"(B) FINAL GUIDANCE.—Not later than 30 months after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator shall publish in the Federal Register final guidance described in clauses (i) and (ii) of subparagraph (A).

"(C) MINIMUM NUMERICAL LIMITS.—The guidance for numerical limits on pollutant concentrations in the Great Lakes developed under this paragraph shall be no less stringent than criteria developed under section 304(a).

"(D) REVIEW AND REVISION.—At least triennially after publication of guidance under subparagraph (B), the Administrator shall review and revise in accordance with this paragraph the guidance published under subparagraph (B) based on the latest scientific knowledge and shall publish such

revisions in the Federal Register. Such revisions may include establishment of new guidance.

"(E) **ADOPTION BY STATES.**—The Great Lakes States shall adopt water quality standards for the Great Lakes which, at a minimum, are consistent with the guidance published by the Administrator under subparagraphs (B) and (D) not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) and shall be consistent with articles II and V, annex 1, and other applicable provisions of the Great Lakes Agreement. The Great Lakes States shall incorporate such standards into all programs which such States would incorporate water quality standards adopted under section 303(c).

"(F) **FAILURE OF STATES TO ADOPT.**—If a Great Lakes State has not complied with subparagraph (E) by the last day of the 3-year period beginning on the date of publication of guidance by the Administrator under subparagraphs (B) and (D), the Administrator shall promulgate water quality standards for the Great Lakes for the State under applicable provisions of section 303. The water quality standards shall be consistent with such guidance. The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards are used.

"(G) **BIOLOGICAL CRITERIA.**—Not later than 30 months after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, and from time to time thereafter, the Administrator shall develop and publish biological criteria for assessing Great Lakes water quality. Such criteria shall complement guidance published by the Administrator under subparagraphs (B) and (D). A State is not required under this paragraph to adopt such criteria.

"(6) **REMEDIAL ACTION PLANS.**—

"(A) **DEVELOPMENT.**—For places designated by the United States as 'areas of concern' pursuant to the Great Lakes Agreement, the Great Lakes States shall develop remedial action plans in accordance with annex 2 of the Great Lakes Agreement.

"(B) **TECHNICAL ASSISTANCE.**—The Program Office shall provide technical assistance to the Great Lakes States for developing remedial action plans under this paragraph.

"(C) **SUBMISSION TO IJC AND DIRECTOR OF PROGRAM OFFICE.**—

"(i) **IN GENERAL.**—Each Great Lakes State shall submit remedial action plans developed by such State to the International Joint Commission and to the Director of the Program Office for review in accordance with the 3-staged schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

"(ii) **DEADLINE FOR AREAS OF CONCERN DESIGNATED BEFORE DATE OF ENACTMENT.**—Except as provided in subparagraph (D), for areas of concern designated by the United States before the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement by June 1, 1992, and stage 2 by June 1, 1994.

"(iii) **DEADLINE FOR AREAS OF CONCERN DESIGNATED AFTER DATE OF ENACTMENT.**—Except as provided in subparagraph (D), for areas of concern designated by the United States on or after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement not later than the last day of the 3-year period beginning on the date of the designation and stage 2 not later than the last day of the 5-year period beginning on such date.

"(D) **REQUESTS FOR DEADLINE EXTENSIONS.**—

"(i) **IN GENERAL.**—The Governor of a Great Lakes State may submit to the Director of the Program Office a request for extension of a deadline established by subparagraph (C). Any such request shall be submitted to the Director at least 1 year before the date of such deadline.

"(ii) **REQUIREMENTS.**—A request for extension of a deadline shall contain an explanation of the need for the extension and an alternate schedule for completion of stage 1 and stage 2 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

"(iii) CONSULTATION WITH LOCAL OFFICIALS AND CITIZENS.—A request for extension of a deadline shall be developed by the Governor of a Great Lakes State in consultation with local officials and citizens involved in the development of the remedial action plan.

"(iv) NOTICE AND PUBLIC COMMENT.—At least 60 days before the date of submission to the Director of the Program Office of a request for extension of a deadline, the Governor of a Great Lakes State shall provide notice to the public of such request and shall solicit public comments. Any comments received by the Governor pursuant to this clause shall be submitted to the Director together with such request.

"(v) FACTORS FOR REVIEW.—In reviewing a request for extension of a deadline, the Director of the Program Office shall consider the availability of funds for developing the remedial action plan, citizen comments, and whether compliance with the deadline established by subparagraph (C) is reasonable under the circumstances.

"(vi) APPROVAL OR DENIAL.—The Administrator, acting through the Director of the Program Office, shall approve or deny a request for extension of a deadline not later than the 60th day after the date of receipt of the request.

"(E) REVIEW AND REVISION.—Based on comments published by the International Joint Commission evaluating whether a plan submitted by a State under subparagraph (C) meets the requirements of annex 2(4)(a) of the Great Lakes Agreement, the Director of the Program Office shall notify the State of any deficiencies in the plan and the State shall promptly revise the plan accordingly. A stage of a plan shall not be considered complete for the purposes of subparagraph (C) until the Administrator, acting through the Director of the Program Office, has determined that such stage meets applicable requirements of annex 2(4)(a) of the Great Lakes Agreement.

"(F) INCLUSION IN WATER QUALITY PLAN.—Each Great Lakes State shall include in its water quality plan under section 303(e) remedial actions described in each remedial action plan developed by it under this paragraph.

"(7) LAKEWIDE MANAGEMENT PLANS.—

"(A) DEVELOPMENT.—The Administrator, in consultation with the Great Lakes States and after providing notice and opportunity for public hearings and comment, shall develop for each of the Great Lakes a lakewide management plan for the purpose of implementing annex 2 of the Great Lakes Agreement.

"(B) CONSULTATION WITH CANADA.—The Administrator shall develop the management plan for each Great Lake (other than Lake Michigan) in conjunction with the Administrator's counterpart in the Government of Canada.

"(C) SUBMISSION TO IJC.—The Administrator shall submit the management plan developed under this paragraph for Lake Michigan to the International Joint Commission for review in accordance with the 4-staged schedule set forth in annex 2(6)(c) of the Great Lakes Agreement. The Administrator shall complete stage 1 of such schedule by June 1993, stage 2 by June 1994, and stage 3 by June 1995.

"(D) REVISION.—If the International Joint Commission finds that a plan submitted for review under subparagraph (C) does not meet the requirements of annex 2(6)(a) and (b) of the Great Lakes Agreement and notifies the Administrator of such deficiencies, the Administrator shall revise such plan and implementation of such plan accordingly or publish an explanation of why such revisions are not necessary."

(f) COMPREHENSIVE REPORT.—Subsection (c)(9) of such section, as redesignated by subsection (e) of this section, is amended—

- (1) by striking "and" at the end of subparagraph (C);
- (2) by striking the period at the end of subparagraph (D)(ii) and inserting a semicolon; and
- (3) by adding at the end the following new subparagraphs:

"(E) describes the progress made in such preceding fiscal year in developing and implementing guidance for numerical limits on pollutant concentrations in the Great Lakes under paragraph (5);

"(F) describes the progress made in such preceding fiscal year in developing and implementing remedial action plans under paragraph (6); and

"(G) describes the progress made in such preceding fiscal year in developing and implementing lakewide management plans under paragraph (7)."

(g) STATE GRANT PROGRAM; CONSISTENCY IN REPORTING.—Such section is further amended by redesignating subsections (g) and (h), and any reference thereto, as subsections (i) and (j), respectively, and by inserting after subsection (f) the following new subsections:

“(g) GRANT PROGRAM.—

“(1) ESTABLISHMENT.—The Administrator shall establish a program for making grants to Great Lakes States to implement the Great Lakes Agreement and to carry out the objectives of this section:

“(2) PLAN.—In order to receive a grant under this section, a State must submit to the Administrator a multiyear plan—

“(A) for utilizing Federal assistance provided under the grant; and

“(B) for implementing the Great Lakes Agreement and complying with this section.

The plan shall include a timetable for complying with subsection (c)(5), relating to Great Lakes specific water quality standards, a timetable for complying with subsection (c)(6), relating to remedial action plans, and an estimate of the cost the State will incur in implementing the Great Lakes Agreement and complying with this section.

“(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant under this section shall be 50 percent.

“(h) CONSISTENCY IN REPORTING.—Not later than 2 years after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in cooperation with the Great Lakes States and the counterpart to the Administrator in the Government of Canada, shall develop consistent methods of reporting water quality data required to be submitted to the International Joint Commission under the Great Lakes Agreement.”

(h) AUTHORIZATION OF APPROPRIATIONS.—Subsection (j) of such section, as redesignated by subsection (g) of this section, is amended to read as follows:

“(j) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—

“(1) FISCAL YEARS 1987-1991.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed \$11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

“(A) 40 percent shall be used by the Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

“(B) 7 percent shall be used by the Program Office for the program of nutrient monitoring; and

“(C) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.

“(2) FISCAL YEARS 1992-1997.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed \$30,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Of the amounts appropriated each fiscal year, \$6,000,000 shall be used by the Program Office for establishment of a monitoring surveillance network under subsection (c)(1)(B). Of remaining amounts for such fiscal year—

“(A) 30 percent shall be used by the Program Office for carrying out studies and demonstration projects under subsection (c)(3);

“(B) 8 percent shall be used for development of water quality guidance under subsection (c)(5);

“(C) 10 percent shall be used by the Program Office for providing technical assistance to States in developing remedial action plans under subsection (c)(6) and for development of lakewide management plans under subsection (c)(7); and

“(D) 42 percent shall be used for grants to States under subsection (g).”

SEC. 703. NAMING OF LABORATORY AND RESEARCH FACILITY LOCATED AT DULUTH, MINNESOTA.

(a) DESIGNATION.—The laboratory and research facility located at Duluth, Minnesota, and established pursuant to section 104(e) of the Clean Water Act (33 U.S.C. 1254(e)) shall hereafter be known and designated as the “John A. Blatnik National Fresh Water Quality Research Laboratory”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the “John A. Blatnik National Fresh Water Quality Research Laboratory”.

## TITLE VIII.—EXTENSION OF FEDERAL WATER POLLUTION CONTROL PROGRAM

### SEC. 801. RESEARCH AND INVESTIGATIONS.

(a) IN GENERAL.—Section 104(u)(1) of the Clean Water Act (33 U.S.C. 1254(u)(1)) is amended by striking “and” after “1985,” and by inserting after “1990,” the following: “and such sums as may be necessary for fiscal years 1991 and 1992.”

(b) FORECASTING.—Section 104(u)(2) of the Clean Water Act (33 U.S.C. 1254(u)(2)) is amended by striking “and” after “1985,” and by inserting after “1990,” the following: “and such sums as may be necessary for fiscal years 1991 and 1992.”

### SEC. 802. GRANTS FOR PROGRAM ADMINISTRATION.

Section 106(a)(2) of the Clean Water Act (33 U.S.C. 1256(a)(2)) is amended by striking “and” after “1985,” and by inserting after “1990” the following: “, and such sums as may be necessary for fiscal years 1991 and 1992”.

### SEC. 803. RURAL CLEAN WATER.

Section 208(j)(9) of the Clean Water Act (33 U.S.C. 1288(j)(9)) is amended by striking “1990,” and inserting “1992.”

### SEC. 804. INTERAGENCY AGREEMENTS.

Section 304(k)(3) of the Clean Water Act (33 U.S.C. 1314(k)(3)) is amended by striking “1990” and inserting “1992”.

### SEC. 805. CLEAN LAKES.

Section 314(c)(2) of the Clean Water Act (33 U.S.C. 1324(c)(2)) is amended—

(1) by striking “1985, and” and inserting “1985.”; and

(2) by striking “1990” and inserting “1990, and such sums as may be necessary for fiscal years 1991 and 1992”.

### SEC. 806. NONPOINT SOURCE.

Section 319(j) of the Clean Water Act (33 U.S.C. 1329(j)) is amended by striking “and” after “1990,” and by inserting after “1991” the following: “, and such sums as may be necessary for fiscal year 1992”.

### SEC. 807. GENERAL AUTHORIZATION.

Section 517 of the Clean Water Act (33 U.S.C. 1376) is amended by striking “and” after “1985,” and by inserting after “1990” the following: “, and such sums as may be necessary for fiscal years 1991 and 1992”.

### SEC. 808. ALLOTMENT OF STATE REVOLVING LOAN FUNDS.

Section 604(a) of the Clean Water Act (33 U.S.C. 1384(a)) is amended by striking “and 1990” and inserting “through 1992”.

### SEC. 809. AUTHORIZATION OF APPROPRIATIONS FOR STATE REVOLVING LOAN PROGRAM.

Section 607(3) of the Clean Water Act (33 U.S.C. 1387(3)) by striking “\$1,800,000,000” and inserting “\$2,000,000,000”.

### SEC. 810. DEMONSTRATION PROJECT.

(a) PROJECT DESCRIPTION.—Notwithstanding any other provision of law, the Administrator, in consultation with the Secretary of the Army, shall conduct a project to demonstrate the use of constructed wetlands to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(b) NON-FEDERAL RESPONSIBILITIES.—For the project conducted under subsection (a), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices; except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be cred-

ited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

## INTRODUCTION

The protection of coastal waters has been an issue of increasing concern to the Committee. The coastal environment provides an important habitat for fish and wildlife. According to the EPA, approximately 87 percent of U.S. finfish harvests nationally, in dollars, are species whose life cycles depend entirely or in part on near coastal water habitat (including the Great Lakes). Economically, coastal waters are valuable not only because of the fisheries they hold, but because of the tourism, real estate, industrial water supply, and transportation linkages they supply as well. In addition, roughly 70 percent of the U.S. population lives within 50 miles of a coastline (including the Great Lakes) and that number is growing.

Pollution of coastal waters comes from an array of sources including industrial and municipal sewage treatment plant discharges, urban and rural nonpoint source runoff, stormwater and combined sewer overflow drains, and atmospheric deposition. EPA reports that cumulatively, the pollutants from these sources have degraded the coastal environment by damaging critical habitats, contaminating fish with toxins, and posing risks to public health.

H.R. 2647, as reported from Committee, is designed to strengthen Federal and state efforts to improve and maintain the quality of Great Lakes and marine coastal waters. It amends provisions of the Federal Water Pollution Control Act, the Coastal Zone Management Act, the 1986 Water Resources Development Act, and the Ocean Dumping Act, as well as establishing new programs. It aims to improve coastal water quality criteria and standards development, coastal land use management, coastal water quality monitoring, and compliance with and enforcement of coastal water quality protection laws.

## SECTION-BY-SECTION ANALYSIS

### TITLE I—GENERAL PROVISIONS

#### *Section 101. Short title*

This section states that the title of the bill, H.R. 2647, is the "Coastal Defense Initiative of 1990."

#### *Section 102. Findings and purposes*

This section contains findings as to the need for efforts to improve and protect coastal water quality and states the purpose of the bill as forging a common commitment among Federal, state, and local programs to preserve and protect coastal water quality.

#### *Section 103. Definitions*

This section defines terms used in the bill. The Great Lakes and Great Lakes states are included in the definitions of coastal waters, coastal states, and coastal regions.

## TITLE II—COASTAL WATER QUALITY

This title is designed to strengthen the ability of Federal and state water quality programs to protect and restore coastal waters. It contains provisions relating to coastal water quality criteria and standards, the development and implementation of state coastal water quality protection programs, the designation and protection of outstanding coastal resource waters, coastal pollution discharge criteria, marine sanitation devices, identification and development of nonpoint source coastal pollution control measures, modifications to the national estuary program, extension of authorization for the Chesapeake Bay Program, alternatives to the Mud Dump Site for disposal of dredged material from the New York/New Jersey Harbor area, interim control measures for combined sewer overflows, demonstration projects for nonpoint source pollution control, a moratorium on ocean wood burning, and establishment of a program for Puget Sound.

*Section 201. Purpose*

This section states the purpose of this title as strengthening the ability of Federal and state water quality programs to protect and restore coastal waters.

*Section 202. Coastal water quality criteria and standards*

This section amends the Federal Water Pollution Control Act, directing EPA to develop a detailed 5-year schedule for developing or revising water quality criteria for pollutants which pose the greatest risk to coastal waters. The schedule is to provide for the issuance of criteria within 2 years for pollutants of particular concern.

When coastal states periodically review and revise water quality standards, as required by the Federal Water Pollution Control Act, they are required to adopt coastal water quality standards for pollutants for which criteria have been developed or revised in accordance with the requirements of section 303 of the Federal Water Pollution Control Act.

The section also directs the EPA, within 2 years, to develop and publish biological criteria and sediment criteria for assessing coastal water quality. The Corps of Engineers is authorized to provide technical and scientific assistance to EPA in developing the sediment criteria. In addition, the EPA is to consult with the Corps in developing sediment criteria which relate to removal and disposal of dredged material.

*Section 203. Restoring and protecting coastal water quality*

This section amends the Federal Water Pollution Control Act, requiring each state to develop a comprehensive, program within 2 and one half years for restoring and protecting all coastal waters not meeting quality standards or designated uses. The program would incorporate requirements of and build upon Clean Water Act mandated toxic hotspots, nonpoint source pollution control, waste load allocation, and national energy programs and the Coastal Zone Management Act land use management program established under section 302 of this legislation. Grant applications under the nonpoint source pollution control, national estuary and

coastal land use management programs must contain descriptions of how funds under those programs will be used to implement this coastal water quality program.

The program must be approved by EPA in consultation with NOAA, EPA and NOAA will approve the provision relating to the Coastal Zone Management Act land use management program established under section 302 of this Act. If a state does not submit an approvable program within 3 years, Federal financial assistance for non-point source pollution relating to coastal waters, the national estuary program, and the new land use management program established under section 302 of this Act may not be provided until the program is approved.

Requirements of this section are enforceable under federal enforcement and citizen suit provisions of the Federal Water Pollution Control Act. In addition, EPA approval of state plans would be subject to judicial review under the Federal Water Pollution Control Act.

#### *Section 204. Outstanding Coastal Resource Waters*

This section directs coastal states to designate as Outstanding Coastal Resource Waters those waters which have particular ecological, recreational, or aesthetic value or biological significance for additional protection.

#### *Section 205. Ocean Discharge Criteria*

This section amends the ocean discharge criteria provision of the Federal Water Pollution Control Act to, among other things, subject discharges into critical estuaries to ocean discharge criteria.

#### *Section 206. Marine sanitation devices*

The section amends the Federal Water Pollution Control Act to authorize local governments to enforce regulations relating to marine sanitation devices. It also includes provisions requiring an EPA study of the adequacy of current vessel pumpout facilities and an EPA and Fish and Wildlife Service study identifying funds available under the Dingell-Johnson Sport Fish Restoration Act for construction of pumpout facilities. Finally, the section would allow states to adopt and enforce requirements more stringent than those contained in section 312 of the Federal Water Pollution Control Act.

#### *Section 207. Nonpoint source coastal pollution control measures*

This section requires EPA to issue technical guidance on methods for controlling and quantifying nonpoint sources of pollution to coastal waters. EPA also is required to determine the pollution reduction effects of the pollution control measures; these determinations will have the force and effect of a rebuttable presumption in any administrative or judicial proceeding under this Act or the Federal Water Pollution Control Act.

#### *Section 208. National estuary program*

This section amends the Federal Water Pollution Control Act by expanding the mandate of the national estuary program to cover implementation as well as development of plans to restore and pre-

serve water quality in critical estuaries. Authorization for the program is extended from fiscal 1991 to 1995 and increased from \$12 million to \$40 million annually. St. John's River Estuary, Florida and Morro Bay, California would be added to the list of estuaries for priority consideration for inclusion in the national program. The section also designates Massachusetts Bay, Massachusetts as an estuary of national significance and requires EPA to make available to the management conference established for this estuary an appropriate pro rata share of the funds appropriated for implementing the national estuary program. Finally, the section requires EPA to establish an EPA Long Island Sound regional office.

*Section 209. Chesapeake Bay Program*

This section amends section 117 of the Federal Water Pollution Control Act to extend expiration of the appropriations authorization from fiscal 1990 to 1992. The section authorizes appropriation of such sums as may be necessary for fiscal 1991 to 1992.

*Section 210. Existing provisions not affected*

This section provides that this Act will in no way affect the provisions of the Caribbean Basin Economic Recovery Act.

*Section 211. Alternatives to the mud dump site for disposal of dredged material*

This section authorizes the Corps of Engineers and the EPA to perform a New York/New Jersey Harbor dredge spoil disposal study. The section authorizes appropriations of \$1.5 million in fiscal 1991 and such sums as may be necessary for fiscal 1992 for this study. The section also requires that the final report authorized by section 211 of the 1986 Water Resources Development Act on the feasibility of designating an alternative site to the Mud Dump Site at a distance no less than 20 miles off shore be submitted to Congress, within 3 months of enactment of this legislation, and repeals this section of the Water Resources Development Act. Finally, the section provides that only dredged material meeting the criteria of section 102(a) of the Marine Protection, Research, and Sanctuaries Act may be dumped at the Mud Dump Site.

*Section 212. Marine combined sewer overflows*

This section amends the Federal Water Pollution Control Act to require EPA, after consultation with appropriate federal and state agencies and other interested persons, to issue regulations within 1 year of enactment of this legislation to require screening or other interim measures to control floatables in marine combined sewer overflow discharges.

The purpose of this section is to require states and localities to develop and implement programs to control floatables in marine combined sewer overflow discharges. States and localities should be provided with a reasonable but expeditious time frame for developing floatable control measures which should include but not be limited to: screens retention tanks, improved street sweeping programs, improved floatable capture technology and public education programs. States and localities should be encouraged to address combined sewer overflows with most significant impacts on water

quality first. Nothing in this section excuses states from meeting the statutory requirements of this Act.

*Section 213. Demonstration projects to control nonpoint sources of pollution entering coastal waters*

This section authorizes the EPA to conduct a 5-year demonstration project to control nonpoint sources of pollution entering the Navesink and Shrewsbury River Basin, New Jersey. It also authorizes EPA to undertake a demonstration project to eliminate contamination of the waters in the vicinity of Woodlawn Beach, Hamburg, New York, from nonpoint sources of pollution. The non-federal share of the cost of each project is 50 percent.

*Section 214. Prohibition against burning of wood on ocean waters*

This section amends the Marine Protection, Research, and Sanctuaries Act to prohibit burning of wood on ocean waters after December 31, 1991.

*Section 215. Puget Sound water quality improvement*

This section would amend the Federal Water Pollution Control Act to establish a Federal program to assist in restoration of the Puget Sound in Washington State. The provision would authorize \$8 million annually for EPA to provide 50 percent matching grants to the state of Washington for implementing the Puget Sound Water Quality Management Plan, water quality monitoring, and restoration related research activities. The program is authorized for fiscal years 1991 through 1995.

TITLE III—COASTAL MANAGEMENT

This title contains amendments to the Coastal Zone Management Act to strengthen the link between coastal zone and water quality programs and to improve coastal nonpoint source pollution control efforts under state Coastal Zone Management Act programs.

*Section 301. Purpose*

This section states the purpose of this title as strengthening the link between coastal zone and water quality programs and encouraging and expanding state and local efforts and capabilities to promote sound management of land uses and protect coastal waters.

*Section 302. Coastal Zone Management Act of 1972 Amendments*

This section contains a number of water quality related amendments to the Coastal Zone Management Act, including an amendment to the findings in the Act to emphasize the relationship between land use and coastal water quality and an amendment to the statement of policy in the Act to add the management of coastal development to protect coastal water quality.

This section also establishes a new Coastal Zone Management Act section 306B to improve land use management to reduce nonpoint source pollution. The new section requires each coastal zone management agency in a state with an approved coastal management program, within three years, to develop and implement a program for coastal land use management to control nonpoint source

pollution. In developing program, the coastal management agency is to work closely with the state water quality agency. In addition, the program must be developed and submitted in conjunction with the comprehensive coastal water quality program, established by section 203 of this Act, and must be coordinated with Federal Water Pollution Control Act nonpoint source pollution control and national estuary programs. The provision calls for modification of the inland coastal zone boundary as necessary to protect coastal waters from nonpoint source pollution.

New Section 306B programs are to be approved by NOAA and EPA. If a state has not submitted an approvable program within 3 years, it becomes ineligible to receive grants under section 603 of this Act and it loses a gradually increasing portion of the grants available under the Coastal Zone Management Act. The section does allow for NOAA and EPA to waive the financial penalties for up to 3 years following the deadline for states making progress in developing plans.

### *Section 303. Inland boundaries of coastal zones*

This section requires NOAA and EPA to determine if the inland boundary of the coastal zone extends inland to the extent necessary to control land and water uses that have a significant impact on coastal water quality.

### *Section 304. Coordination with National Estuary Program*

This section requires states to appoint representatives of the coastal management agency to any management conferences convened under the national estuary program in its state.

## TITLE IV—COASTAL WATER QUALITY MONITORING PROGRAM

This title establishes a long-term monitoring program for high-priority coastal waters in order to improve the data collection on the extent and impacts of pollution contamination.

### *Section 401. Purpose*

This section states the purpose of the title as establishing a long-term water quality monitoring program for high priority coastal waters in order to enhance efforts to develop and implement effective remedial programs for those waters.

### *Section 402. National Coastal Water Quality Monitoring Program*

This section requires EPA, in consultation with other Federal agencies, states and representatives of the scientific community to develop and implement a national coastal monitoring strategy. EPA and the appropriate states are required to develop and implement regional monitoring plans for high-priority coastal waters.

### *Section 403. Monitoring guidelines*

This section requires EPA to develop monitoring guidelines for coastal monitoring plans.

#### *Section 404. Compliance and enforcement*

This section requires EPA and the appropriate states to ensure compliance with the state developed coastal water quality monitoring programs and makes the programs enforceable under the Marine Protection, Research, and Sanctuaries Act. It also requires states to submit the programs as part of any Coastal Zone Management program for approval. Finally, EPA and the appropriate states are required to incorporate monitoring requirements into discharge permits.

#### *Section 405. Combined sewer overflow inventory*

This section requires EPA to inventory combined sewer overflow discharges and report its findings to the Congress within 2 years. The report shall contain a list of combined sewer overflows from which discharges into the waters of the United States occur, including location of such overflows, the amount and nature of such discharges, and the effects of such discharges on water quality. The Committee directs the EPA in preparing the report to also develop information where feasible on the cost of implementing control strategies for addressing water quality impacts of combined sewer overflows.

### TITLE V—COMPLIANCE AND ENFORCEMENT

This title creates new enforcement provisions and modifies existing provisions in order to increase compliance with water pollution control requirements in coastal waters.

#### *Section 501. Purpose*

This section states that the purpose of this title is to increase compliance with Federal and state water pollution control requirements for coastal areas by strengthening sanctions for noncompliance and by increasing penalties so as to create incentives for compliance.

#### *Section 502. Federal Procurement*

This section prohibits Federal procurement of goods or services from businesses in significant noncompliance with point source discharge, nonpoint source pollution control, or national estuary program requirements until EPA certifies that the problem has been corrected.

#### *Section 503. Limitations on Federal Development Projects and Financial Assistance*

This section prohibits the Federal Government from undertaking any development programs or awarding any grants for activities that may adversely affect coastal water quality in coastal states showing a pattern of substantial and willful failure to achieve water quality standards and protect designated uses. This prohibition will not apply to any Federal development project or grant designed to protect public health, public safety, or improve coastal water quality as determined by EPA in consultation with other affected Federal agencies. This prohibition also will not apply to any Federal development project or grant that the President determines to be in the paramount interest of the U.S.

*Section 504. Federal Facility Compliance*

This section makes the Federal Water Pollution Control Act Federal facility compliance requirements applicable to this Act.

*Section 505. Elimination of Economic Incentives*

This section amends the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act to require that penalties for noncompliance assessed under these laws be sufficient to eliminate economic benefits or savings that may have accrued from such violations.

*Section 506. Posting of Coastal Waters*

This section requires states to post notices at certain coastal waters not meeting water quality standards. Notices must explain the principal health and environmental effects of the failure to meet those standards.

*Section 508. Enforcement*

This section states that any violation of this Act is deemed to be a violation of the Federal Water Pollution Control Act.

*Section 509. Ocean dumping enforcement*

This section amends the Marine Protection, Research, and Sanctuaries Act to clarify EPA's authority to deny permits on the grounds that dumping would not meet applicable criteria.

## TITLE VI—FUNDING

This title establishes a fund to provide assistance to states in meeting the requirements of the Act.

*Section 601. Purpose*

This section states the purpose of this title as establishing a Coastal Defense Fund and authorizing establishment of State coastal protection funds.

*Section 602. Coastal Defense Fund*

This section establishes a Coastal Defense Fund in the U.S. Treasury and authorizes appropriation to the fund of up to \$150 million annually—less the amount credited from fines and penalties and funds equivalent to a portion of outer continental shelf revenues.

*Section 603. State Grants*

This section authorizes states to establish Coastal Protection Funds into which grants from the Federal Coastal Defense Fund would be deposited. The state funds would be authorized for use in carrying out the requirements of this act, including development and implementation of comprehensive coastal water quality programs authorized under section 203 of the Act, coastal nonpoint source pollution control programs authorized under section 302 of this Act, and regional monitoring programs authorized under section 402 of this Act. In order to receive grants, states must provide a 25 percent match.

### *Section 604. Fines penalties, and other payments*

This section requires that any penalty, fine, or other payments assessed under the citizens suit or federal enforcement provisions of the Federal Water Pollution Control Act against dischargers to coastal waters or the enforcement provisions of the Marine Protection Research, and Sanctuaries Act be deposited into the Coastal Defense Fund, except for those amounts awarded to the costs of litigation under the citizens suit provisions and those amounts reserved to finance environmental credit projects.

### *Section 605. Outer Continental Shelf revenues*

This section requires an amount equivalent to a portion of the revenues deposited into the U.S. Treasury under the Outer Continental Shelf Lands Act to be deposited into the Coastal Defense Fund. The prescribed amounts are to be equal to 10 percent of the amount by which all Outer Continental Shelf mineral receipts deposited in the U.S. Treasury during the particular fiscal year exceeded Outer Continental Shelf mineral receipts deposited during fiscal year 1989.

## TITLE VII—GREAT LAKES WATER QUALITY IMPROVEMENT

### *Section 701. Short Title*

This section provides that this title may be cited as the "Great Lakes Water Quality Improvement Act of 1990."

### *Section 702. Amendments to Federal Water Pollution Control Act*

This section contains several amendments to section 118 of the Federal Water Pollution Control Act including changes to the purposes and definitions.

In addition, the section extends the authorization by 2 years for completing the contaminated sediments demonstration cleanup projects under subsection (c)(3) of the section. The provision also includes Duluth Superior Harbor among the sites designated for priority consideration as a location for a demonstration project. This will permit development of a promising new technology for treating contaminated sediments. The Committee is aware that the Coleraine (MN) Minerals Research Laboratory and the Natural Resources Research Institute, located in Duluth, Minnesota, working with the Environmental Protection Agency's Environmental Research Laboratory/Duluth, have proposed to demonstrate technology, already used in the mining industry, for extracting toxic metals as well as organic pollutants from contaminated bottom sediments commonly found in harbors and estuaries. Such technologies, by reducing the volume of contaminated material, could dramatically reduce the costs of treatment. The Committee encourages the Administrator to include demonstration of this technology in the Duluth Superior Harbor.

The section requires EPA, in consultation with the Great Lakes States, to develop, within 2½ years, guidance on Great Lakes water quality standards in accordance with the Great Lakes Water Quality Agreement (the Agreement) and requires Great Lakes States to adopt, within 3 years of EPA publication of guidance, water quality standards for the Great Lakes consistent with the guidance and the

Agreement. The Committee notes that States will continue to have a reasonable degree of flexibility in developing water quality standards, consistent with the requirements of section 303 of the Federal Water Pollution Control Act. However, the guidance and the water quality standards must be consistent with the Agreement and must be no less restrictive than current water quality criteria. The Committee's intent is to incorporate general and specific objectives of the Agreement into the programs for development and implementation of water quality standards under the Federal Water Pollution Control Act. One of the intentions of the requirement for consistency with the Agreement is to establish minimum uniform standards. However, states will remain free to adopt more stringent standards if they desire.

The section also requires the EPA Administrator to publish within 2½ years, biological criteria to complement pollutant specific water quality criteria and guidance for the Great Lakes required under this section. States may incorporate biological criteria into their water quality protection programs, however, this section does not require them to do so. In no case shall biological criteria be used to justify increased discharges of toxic chemicals in excess of chemical-specific limits established in national pollutant discharge elimination system permits or which result in violation of applicable water quality standards.

The section requires Great Lakes States to develop Remedial Action Plans through stage two (as described in the Agreement) for places designated as Areas of Concern pursuant to the Agreement. The Remedial Action Plans must be determined by the EPA Administrator, acting through the Great Lakes National Program Office, to be complete through stage two by June 1994. The States must include removal actions pursuant to the completed Remedial Action Plans in their Federal Water Pollution Control Act section 303(e) water quality plans. The section allows states to request an extension in the deadlines for completion of Remedial Action Plans. The Administrator is to consider the availability of funds, citizens' comments, and whether the deadline is reasonable in determining whether to grant an extension. In determining whether a deadline is reasonable in a given situation, the Administrator shall consider whether the State has taken all reasonable steps to complete the stages of the Remedial Action Plans by the appropriate deadlines. In justifying an extension, the Administrator may consider, among other things, the complexity of the cleanup effort, the availability of appropriate cleanup technologies, and, in the case of Areas of Concern shared with Canada, any difficulties arising from the international nature of the site affecting the States' ability to develop a solution.

This section requires the EPA Administrator to develop a Lakewide Management Plan for each of the Great Lakes through stage three (as described in the Agreement). Deadlines are established for completion of the stages of the Lakewide Management Plan only for Lake Michigan because it is the only lake lying entirely inside the United States border.

The section allows Great Lakes states to receive 50 percent matching federal grants from EPA for implementing the Agreement and carrying out the requirements of this title.

This section requires the EPA Administrator, in consultation with the Great Lakes States and Canada, to develop, within 2 years, consistent methods of reporting water quality data required to be submitted to the International Joint Commission under the Agreement.

Finally, the section revises the funding provisions of section 118 by extending the authorization from fiscal year 1991 to 1997 and by increasing the annual funding from \$11 million to \$30 million. The Great Lakes National Program Office will receive \$6 million of this annually for monitoring and surveillance. The rest will be split: 30 percent for the Program Office to perform the sediment remediation demonstration projects, 8 percent for the Administrator to develop and oversee implementation of water quality guidance, 10 percent for the Program Office to provide technical assistance to States on Remedial Action Plan development and for the Administrator to develop Lakewide Management Plans, and 42 percent for the Administrator to provide grants to States.

*Section 703. Naming laboratory and research facility located at Duluth, MN*

This section designates the laboratory and research facility established under section 104(e) of the Federal Water Pollution Control Act and located at Duluth, Minnesota, as the "John A. Blatnik National Fresh Water Quality Research Laboratory." The Committee includes this section in recognition of the Honorable John A. Blatnik's commitment to the Great Lakes community and the significant contributions he has made over the years in protecting and improving the Great Lakes' and the nation's water resources. As chairman of the Subcommittee on Water Resources, he authored the first comprehensive water pollution control legislation in 1956, and later, as chairman of the Committee, he authored the landmark Federal Water Pollution Control Act of 1972. The 1956 legislation initiated a grants-in-aid program for construction of sewage treatment plants, enforcement provisions and a major research program. It became the template for all future water pollution control legislation.

In the 1961 reauthorization of the water pollution control law, Chairman Blatnik included authorization of the National Fresh Water Laboratory in Duluth, Minnesota as a companion to the National Salt Water Laboratory already established in Rhode Island. Section 3 of this legislation renames this freshwater laboratory.

The Committee is aware that the University of Minnesota has proposed to share in construction of an expanded facility at this laboratory, for use by aquatic scientists from around the world, with the facility to be jointly funded and administered by the State of Minnesota and the EPA. The Committee encourages consideration of this proposal by the EPA.

**TITLE VIII—EXTENSION OF FEDERAL WATER POLLUTION CONTROL PROGRAM**

The purpose of this title is to extend the authorities for appropriations through 1992 for several programs established under the Federal Water Pollution Control Act. In addition, it increases the

authorization for State Revolving Loan Fund grants for fiscal 1992 from \$1,800,000,000 to \$2,000,000,000. The title also authorizes a project to demonstrate the use of constructed wetlands to improve the quality of effluent discharged from publicly owned treatment works. The Committee notes that title VIII represents only a modest, short-term reauthorization of Federal Water Pollution Control Act programs set to expire this year or next. More comprehensive amendments will be considered in the context of Federal Water Pollution Control Act reauthorization next Congress.

*Section 801. Research and investigations*

This section amends section 104(u) of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992. The section authorizes appropriation of such sums as may be necessary for fiscal 1991 and 1992.

*Section 802. Grants for program administration*

This section amends section 106(a) of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992. The section authorizes appropriation of such sums as may be necessary for fiscal 1991 and 1992.

*Section 803. Rural clean water*

This section amends section 208(j) of the Federal Water Pollution Control Act to extend the appropriations authorization to fiscal 1992.

*Section 804. Interagency agreements*

This section amends section 304(k) of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992.

*Section 805. Clean lakes*

This section amends section 314 of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992. The section authorizes appropriation of such sums as may be necessary for fiscal 1991 and 1992.

*Section 806. Nonpoint source*

This section amends section 319 of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992. The section authorizes appropriation of such sums as may be necessary for fiscal 1992.

*Section 807. General authorization*

This section amends section 517 of the Federal Water Pollution Control Act to extend the appropriations authorization through fiscal 1992. The Section authorizes appropriation of such sums as may be necessary for fiscal 1991 and 1992.

*Section 809. Allotment of State revolving loan funds*

This section amends section 604 of the Federal Water Pollution Control Act to extend the applicability of the allotment formula authorized pursuant to section 205(c) through fiscal 1992. The Com-

mittee recognizes the need to revisit this and other issues in the context of more comprehensive Federal Water Pollution Control legislation next Congress.

*Section 810. Authorization of appropriations for State Revolving Loan Program*

This section amends section 607(3) of the Federal Water Pollution Control Act to increase the appropriations authorization from \$1,800,000,000 to \$2,000,000,000 for fiscal year 1992. The Committee believes such a limited increase is appropriate given that previous appropriations have not been at authorized levels and that the nation's wastewater treatment needs continue to grow.

*Section 811. Demonstration project*

This section requires the EPA Administrator, in consultation with the Secretary of the Army to conduct a project to demonstrate the use of constructed wetlands to improve the quality of effluent discharged into Mud Creek or its tributaries from publicly owned treatment works operated by the city of Fayetteville, Arkansas. The section requires the non-federal interest to pay 25 percent of project design and construction costs.

**COMPLIANCE WITH CLAUSE 2(1) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES**

(1) With reference to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Subcommittee on Investigations and Oversight did not hold hearings on the specific subject matter of the legislation. That Subcommittee, however, has conducted investigations of water quality issues relating to surface water quality problems nationally and on implementation of the Federal Water Pollution Control Act.

The Subcommittee on Water Resources held a hearing on coastal pollution issues, as well as several hearings on water quality issues in relation to reauthorization of the Federal Water Pollution Control Act.

(2) With respect to clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives, H.R. 2647, as reported, does not provide new budget authority or increase tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives, the Committee has not received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act.

(4) With reference to clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 2647, as reported, should be negligible with respect to prices and costs.

## COST OF LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 2647, as reported, in fiscal year 1990, and each of the following five years. However, under paragraph (d) of clause 7, its provisions do not apply when the Committee has received a timely report from the Congressional Budget Office. While the Committee has not yet received such a report, it intends to file a supplemental Committee report upon receipt of the report from the Congressional Budget Office.

## COMMITTEE ACTION AND VOTE

The Committee reports favorably the bill H.R. 2647, as amended. The Committee ordered the bill reported by voice vote.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## FEDERAL WATER POLLUTION CONTROL ACT (COMMONLY REFERRED TO AS THE CLEAN WATER ACT)

## TITLE I—RESEARCH AND RELATED PROGRAMS

## RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

## SEC. 104. (a)

(u) There is authorized to be appropriated (1) not to exceed \$100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, not to exceed \$14,039,000 for the fiscal year ending September 30, 1980, not to exceed \$20,697,000 for the fiscal year ending September 30, 1981, not to exceed \$22,770,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985 [and] not to exceed \$22,770,000 per fiscal year for each of the fiscal years 1986 through 1990, and such sums as may be necessary for fiscal years 1991 and 1992, for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed \$7,500,000 for fiscal years 1973, 1974, and 1975, \$2,000,000 for fiscal year 1977, \$3,000,000 for fiscal year 1978, \$3,000,000 for fiscal year 1979, \$3,000,000 for fiscal year 1980, \$3,000,000 for fiscal year 1981, \$3,000,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985,

[and] \$3,000,000 per fiscal year for each of the fiscal years 1986 through 1990, *and such sums as may be necessary for fiscal years 1991 and 1992*, for carrying out the provisions of subsection (g)(1); (3) not to exceed \$2,500,000 for fiscal years 1973, 1974, and 1975, \$1,000,000 for fiscal year 1977, \$1,500,000 for fiscal year 1978, \$1,500,000 for fiscal year 1979, \$1,500,000 for fiscal year 1980, \$1,500,000 for fiscal year 1981, \$1,500,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, and \$1,500,000 per fiscal year for each of the fiscal years 1986 through 1990, for carrying out the provisions of subsection (g)(2); (4) not to exceed \$10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed \$15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed \$10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

\* \* \* \* \*

#### GRANTS FOR POLLUTION CONTROL PROGRAMS

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

- (1) \$60,000,000 for the fiscal year ending June 30, 1973; and
- (2) \$75,000,000 for the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, \$100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980, \$75,000,000 per fiscal year for the fiscal years 1981 and 1982, such sums as may be necessary for fiscal years 1983 through 1985, [and] \$75,000,000 per fiscal year for each of the fiscal years 1986 through 1990, *and such sums as may be necessary for fiscal years 1991 and 1992*;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, and elimination of pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

\* \* \* \* \*

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

- (1) Such State (or interstate agency) filed with the Administrator within one hundred and twenty days after the date of enactment of this section *and from time to time thereafter*;

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

- (B) such additional information, data, and reports as the Administrator may require, *including a description of actions taken by the State in fulfilling the requirements of section 304(n)*.

\* \* \* \* \*

## SEC. 117. CHESAPEAKE BAY.

(a) \* \* \*

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

(1) \$3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990 *and such sums as may be necessary for fiscal years 1991 and 1992*, to carry out subsection (a); and

(2) \$10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990 *and such sums as may be necessary for fiscal years 1991 and 1992*, for grants to States under subsection (b).

## SEC. 118. GREAT LAKES.

(a) **FINDINGS, PURPOSE, AND DEFINITIONS.**—

(1) \* \* \*

[(2) **PURPOSE.**—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978, as amended by the Water Quality Agreement of 1987 and any other agreements and amendments, through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.]

(2) **PURPOSES.**—*The purposes of this section are as follows:*

(A) *To achieve the goals of the Great Lake Agreement and to accelerate implementation of such Agreement through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such Agreement.*

(B) *To promote a better understanding of the effects of toxic pollutants on the Great Lakes ecosystem and the food chain in the Great Lakes and the implications of such effects on human health.*

(C) *To accelerate development of Great Lakes specific water quality standards.*

(D) *To accelerate contaminant sediments cleanup in the Great lakes.*

(3) **DEFINITIONS.**—For purposes of this section, the term—

(A)

(C) *“Great Lakes Agreement” means the Great Lakes Water Quality Agreement” of 1978 between the United States and Canada and any amendments thereto;*

(D) *“Great Lakes State” means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;*

[(C)] (E) "Great Lakes System" means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

[(D)] (F) "Program Office" means the Great Lakes National Program Office established by this section; and

[(E)] (G) "Research Office" means the Great Lakes Research Office established by subsection (d).

\* \* \* \* \*

(c) GREAT LAKES MANAGEMENT.—

(1) FUNCTIONS.—The Program Office shall—

(A) \* \* \*

(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, *including monitoring necessary to implement the Great Lakes Agreement*, with specific emphasis on the monitoring of toxic pollutants;

\* \* \* \* \*

(3) [5-YEAR] 7-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a [five-year] 7-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: *Signaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Duluth Superior Harbor, Minnesota and Wisconsin; Grant Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.*

\* \* \* \* \*

(5) GREAT LAKES SPECIFIC WATER QUALITY STANDARDS.—

(A) DEVELOPMENT AND PUBLICATION OF PROPOSED GUIDANCE.—*Not later than 1 year after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in consultation with the Great Lakes States, shall develop in accordance with applicable provisions of section 304 of this Act and consistent with articles II and V and annex 1 of the Great Lakes Agreement and publish in the Federal Register—*

(i) *proposed guidance for numerical limits on pollutant concentrations in the Great Lakes to protect human health and the biological integrity of the Great Lakes (including aquatic life and wildlife) for those pollutants (including pollutants listed in the 1986 Working List published in the 1987 Water Quality Board Report, to the International Joint Commission) that the Administrator determines need such guidance and guidance described in clause (ii) because of their physical and chemical properties or because of physical and chemical properties of the Great Lakes; and*

(ii) *proposed guidance for use by State and local governments with respect to implementing procedures (including control of point and nonpoint sources of pollu-*

tion), antidegradation, and pollution prevention for pollutants for which the Administrator has developed guidance under clause (i).

(B) **FINAL GUIDANCE.**—Not later than 30 months after the date of the enactment of the Great Lakes' Water Quality Improvement Act of 1990, the Administrator shall publish in the Federal Register final guidance described in clauses (i) and (ii) of subparagraph (A).

(C) **MINIMUM NUMERICAL LIMITS.**—The guidance for numerical limits on pollutant concentrations in the Great Lakes developed under this paragraph shall be no less stringent than criteria developed under section 304(a).

(D) **REVIEW AND REVISION.**—At least triennially after publication of guidance under subparagraph (B), the Administrator shall review and revise in accordance with this paragraph the guidance published under subparagraph (B) based on the latest scientific knowledge and shall publish such revision in the Federal Register. Such revisions may include establishment of new guidance.

(E) **ADOPTION BY STATES.**—The Great Lakes States shall adopt water quality standards for the Great Lakes which, at a minimum, are consistent with the guidance published by the Administrator under subparagraphs (B) and (D) not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) and shall be consistent with articles II and V, annex 1, and other applicable provisions of the Great Lakes Agreement. The Great Lakes States shall incorporate such standards into all programs which such States would incorporate water quality standards adopted under section 303(c).

(F) **FAILURE OF STATES TO ADOPT.**—If a Great Lakes State has not complied with subparagraph (E) by the last day of the 3-year period beginning on the date of publication of guidance by the Administrator under subparagraph (B) and (D), the Administrator shall promulgate water quality standards for the Great Lakes for the State under applicable provisions of section 303. The water quality standards shall be consistent with such guidance. The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards are used.

(G) **BIOLOGICAL CRITERIA.**—Not later than 30 months after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, and from time to time thereafter, the Administrator shall develop and publish biological criteria for assessing Great Lakes water quality. Such criteria shall complement guidance published by the Administrator under subparagraph (B) and (D). A State is not required under this paragraph to adopt such criteria.

(6) **REMEDIAL ACTION PLANS.**—

(A) **DEVELOPMENT.**—For places designated by the United States as "areas of concern" pursuant to the Great Lakes Agreement, the Great Lakes States shall develop remedial

action plans in accordance with annex 2 of the Great Lakes Agreement.

(B) TECHNICAL ASSISTANCE.—The Program Office shall provide technical assistance to the Great Lakes States for developing remedial action plans under this paragraph.

(C) SUBMISSION TO IJC AND DIRECTOR OF PROGRAM OFFICE.—

(i) IN GENERAL.—Each Great Lakes State shall submit remedial action plans developed by such State to the International Joint Commission and to the Director of the Program Office for review in accordance with the 3-staged schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

(ii) DEADLINE FOR AREAS OF CONCERN DESIGNATED BEFORE DATE OF ENACTMENT.—Except as provided in subparagraph (D), for areas of concern designated by the United States before the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement by June 1, 1992, and stage 2 by June 1, 1994.

(iii) DEADLINE FOR AREAS OF CONCERN DESIGNATED AFTER DATE OF ENACTMENT.—Except as provided in subparagraph (D), for areas of concern designated by the United States on or after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement not later than the last day of the 3-year period beginning on the date of the designation and stage 2 not later than the last day of the 5-year period beginning on such date.

(D) REQUESTS FOR DEADLINE EXTENSIONS.—

(i) IN GENERAL.—The Governor of a Great Lakes State may submit to the Director of the Program Office a request for extension of a deadline established by subparagraph (C). Any such request shall be submitted to the Director at least 1 year before the date of such deadline.

(ii) REQUIREMENTS.—A request for extension of a deadline shall contain an explanation of the need for the extension and an alternate schedule for completion of stage 1 and stage 2 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

(iii) CONSULTATION WITH LOCAL OFFICIALS AND CITIZENS.—A request for extension of a deadline shall be developed by the Governor of a Great Lakes State in consultation with local officials and citizens involved in the development of the remedial action plan.

(iv) NOTICE AND PUBLIC COMMENT.—At least 60 days before the date of submission to the Director of the Program Office of a request for extension of a deadline, the Governor of a Great Lakes State shall provide

notice to the public of such request and shall solicit public comments. Any comments received by the Governor pursuant to this clause shall be submitted to the Director together with such request.

(v) **FACTORS FOR REVIEW.**—In reviewing a request for extension of a deadline, the Director of the Program Office shall consider the availability of funds for developing the remedial action plan, citizen comments, and whether compliance with the deadline established by subparagraph (C) is reasonable under the circumstances.

(vi) **APPROVAL OR DENIAL.**—The Administrator, acting through the Director of the Program Office, shall approve or deny a request for extension of a deadline not later than the 60th day after the date of receipt of the request.

(E) **REVIEW AND REVISION.**—Based on comments published by the International Joint Commission evaluating whether a plan submitted by a State under subparagraph (C) meets the requirements of annex 2(4)(a) of the Great Lakes Agreement, the Director of the Program Office shall notify the State of any deficiencies in the plan and the State shall promptly revise the plan accordingly. A stage of a plan shall not be considered complete for the purposes of subparagraph (C) until the Administrator, acting through the Director of the Program Office, has determined that such stage meets applicable requirements of annex 2(4)(a) of the Great Lakes Agreement.

(F) **INCLUSION IN WATER QUALITY PLAN.**—Each Great Lakes State shall include in its water quality plan under section 303(e) remedial actions described in each remedial action plan developed by it under this paragraph.

(7) **LAKEWIDE MANAGEMENT PLANS.**—

(A) **DEVELOPMENT.**—The Administrator, in consultation with the Great Lakes States and after providing notice and opportunity for public hearings and comment, shall develop for each of the Great Lakes a lakewide management plan for the purpose of implementing annex 2 of the Great Lakes Agreement.

(B) **CONSULTATION WITH CANADA.**—The Administrator shall develop the management plan for each Great Lake (other than Lake Michigan) in conjunction with the Administrator's counterpart in the Government of Canada.

(C) **SUBMISSION TO IJC.**—The Administrator shall submit the management plan developed under this paragraph for Lake Michigan to the International Joint Commission for review in accordance with the 4-staged schedule set forth in annex 2(6)(c) of the Great Lakes Agreement. The Administrator shall complete stage 1 of such schedule by June 1993, stage 2 by June 1994, and stage 3 by June 1995.

(D) **REVISION.**—If the International Joint Commission finds that a plan submitted for review under subparagraph (C) does not meet the requirements of annex 2(6) (a) and (b) of the Great Lakes Agreement and notifies the Administra-

*tor of such deficiencies, the Administrator shall revise such plan and implementation of such plan accordingly or publish an explanation of why such revisions are not necessary.*

**[(5)](8)BUDGET ITEM.**—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

**[(6)](9)COMPREHENSIVE REPORT.**—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

(C) describes the long-term prospects for improving the condition of the Great Lakes; **[and]**

(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts **[.]**;

(E) describes the progress made in such preceding fiscal year in developing and implementing guidance for numerical limits on pollutant concentrations in the Great Lakes under paragraph (5);

(F) describes the progress made in such preceding fiscal year in developing and implementing remedial action plans under paragraph (6); and

(G) describes the progress made in such preceding fiscal year in developing and implementing lakewide management plans under paragraph (7).

\* \* \* \* \*

**(g) GRANT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Administrator shall establish a program for making grants to Great Lakes States to implement the Great Lakes Agreement and to carry out the objectives of this section.

(2) *PLAN.*—In order to receive a grant under this section, a State must submit to the Administrator a multiyear plan—

(A) for utilizing Federal assistance provided under the grant; and

(B) for implementing the Great Lakes Agreement and complying with this section.

The plan shall include a timetable for complying with subsection (c)(5), relating to Great Lakes specific water quality standards, a timetable for complying with subsection (c)(6), relating to remedial action plans, and an estimate of the cost the State will incur in implementing the Great Lakes Agreement and complying with this section.

(3) *FEDERAL SHARE.*—The Federal share of the cost of activities carried out with a grant under this section shall be 50 per cent.

(h) *CONSISTENCY IN REPORTING.*—Not later than 2 years after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in cooperation with the Great Lakes States and the counterpart to the Administrator in the Government of Canada, shall develop consistent methods of reporting water quality data required to be submitted to the International Joint Commission under the Great Lakes Agreement.

[(g)](i) *RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.*—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

[(h) *AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.*—There are authorized to be appropriated to the Administrator to carry out this section not to exceed \$11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

[(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

[(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

[(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.]

(j) *AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.*—

(1) *FISCAL YEARS 1987-1991.*—There are authorized to be appropriated to the Administrator to carry out this section not to exceed \$11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

(A) 40 percent shall be used by the Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

(B) 7 percent shall be used by the Program Office for the program of nutrient monitoring; and

(C) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.

(2) **FISCAL YEARS 1992-1997.**—There are authorized to be appropriated to the Administrator to carry out this section not to exceed \$30,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Of the amounts appropriated each fiscal year, \$6,000,000 shall be used by the Program Office for establishment of a monitoring surveillance network under subsection (c)(1)(B). Of remaining amounts for such fiscal year—

(A) 30 percent shall be used by the Program Office for carrying out studies and demonstration projects under subsection (c)(3);

(B) 8 percent shall be used for development of water quality guidance under subsection (c)(5);

(C) 10 percent shall be used by the Program Office for providing technical assistance to States in developing remedial action plans under subsection (c)(6) and for development of lakewide management plans under subsection (c)(7); and

(D) 42 percent shall be used for grants to States under subsection (g).

#### **SEC. 119. PUGET SOUND.**

(a) **GRANT AUTHORITY.**—At the request of the Governor of the State of Washington, the Administrator shall make a grant to the State of Washington Puget Sound Water Quality Authority or its successor (hereinafter in this section referred to as the "Authority") for use by the Authority or its successor in—

(1) implementing and updating the Puget Sound Water Quality Management Plan;

(2) implementing a program for ambient monitoring of the water quality of Puget Sound, including sampling and analysis of the sediment, water quality, and plant and animal populations and habitats of Puget Sound and its freshwater tributaries;

(3) supporting research that will increase understanding of Puget Sound, its ecological systems, and the significance of human impacts on the Puget Sound; and

(4) conducting other activities related to improving the water quality of Puget Sound.

(b) **SUBMISSION OF PROPOSAL.**—In order to receive a grant under this section, the Governor of the State of Washington shall submit to the Administrator a comprehensive proposal for using the proceeds of such grant for carrying out the purposes for which such grant is being sought, including (1), a description of proposed actions which the State commits to take within a specified time period to reduce pollution in Puget Sound and to meet applicable water quality standards, and (2) the estimated cost of the actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator

shall approve such proposal and shall finance the costs of implementing segments of such proposal.

(c) **FEDERAL SHARE.**—Grants under this subsection shall not exceed 50 percent of the total costs of activities to be carried out in a fiscal year with the proceeds of such grant and shall be made on condition that non-Federal sources provide the remainder of the cost of such activities in such fiscal year.

(d) **ADMINISTRATIVE COSTS.**—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this section shall not exceed in any one fiscal year 10 percent of the annual Federal grant made under this section.

(e) **TERMS AND CONDITIONS.**—Grants made under this section shall be subject to such terms and conditions as the Administrator considers appropriate.

(f) **REPORTS.**—The Authority shall, within 18 months after the date of receipt of a grant under this section and biennially thereafter, report to the Administrator on the progress made in carrying out the activities for which the grant is made. The Administrator shall transmit each such report with the comment of the Administrator on such report to Congress.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator not more than \$8,000,000 per fiscal year for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under this section. Such sums shall remain available until expended.

## TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

### AREAWIDE WASTE TREATMENT MANAGEMENT

#### SEC. 208. (a) \* \* \*

#### (j)(1) \* \* \*

(9) There are hereby authorized to be appropriated to the Secretary of Agriculture \$200,000,000 for fiscal year 1979, \$400,000,000 for fiscal year 1980, \$100,000,000 for fiscal year 1981, \$100,000,000 for fiscal year 1982, and such sums as may be necessary for fiscal years 1983 through [1990,] 1992, 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.

## TITLE III—STANDARDS AND ENFORCEMENT

## EFFLUENT LIMITATIONS

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, 403, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

## WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

SEC. 303. (a) \* \* \*

(c)(1) \* \* \*

(2)(A) \* \* \*

*(C)(i) Whenever a coastal State reviews water quality standards pursuant to paragraph (1), the State shall adopt coastal water quality standards for those pollutants for which criteria and information have been published under section 304(a)(9).*

*(ii) Standards adopted by a State under this subparagraph shall be designed to protect the designated uses adopted by the State and achieve the goals of this Act.*

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

(2) Each State shall submit to the Administrator from time to time (*but at least once each 3 year period*), with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the loads established under paragraph (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State and shall

incorporate them into its current plan under subsection (e) of this section.

\* \* \* \* \*

INFORMATION AND GUIDELINE

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

\* \* \* \* \*

(8) INFORMATION OF WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987 *and from time to time thereafter*, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants *and other pollutants that may pose risks to coastal water quality*, on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.

(9)(A) *With 6 months after the effective date of this paragraph, the Administrator shall submit to Congress a detailed 5-year schedule for developing and revising criteria for pollutants which the Administrator determines pose the greatest risk to coastal waters. In developing the schedule, the Administrator shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and the Governors of affected coastal States. The schedule shall provide, among other matters, for the issuance and publication within 2 years of new or revised criteria for such pollutants which the Administrator determines are of particular concern.*

(B) *Within 2 years after the effective date of this paragraph and from time to time thereafter, the Administrator shall develop and publish biological criteria and sediment criteria for assessing coastal water quality that will complement the pollutant-specific criteria published under this section. In developing sediment criteria which relate to the removal and disposal of dredged material, the Administrator shall consult with the Secretary of the Army.*

(C) The Secretary of the Army is authorized to provide technical and scientific assistance to the Administrator with regard to the development of sediment criteria under subparagraph (B).

(k)(1) \* \* \*

(3) There is authorized to be appropriated to carry out the provisions of this subsection, \$100,000,000 per fiscal year for the fiscal years 1979 through 1983 and such sums as may be necessary for fiscal years 1984 through [1990] 1992.

(n) **COMPREHENSIVE COASTAL WATER QUALITY PROTECTION PROGRAMS.**—

(1) **IN GENERAL.**—Within 30 months after the effective date of this section, each coastal State shall develop a coastal water quality protection program for restoring and protecting coastal water quality and achieving and maintaining designated uses. The program shall build on the information contained in the report of the State under section 305(b), and shall build upon and incorporate the requirements applicable to coastal waters under subsection (1) of this section, sections 303(d), 319, and 320 of this Act, and section 306B of the Coastal Zone Management Act of 1972.

(2) **PROGRAM CONTENTS.**—The coastal water quality program required by this subsection shall—

(A) identify from time to time, but in no case less often than once every 3 years—

(i) those coastal waters for which applicable water quality standards or designated uses are not being achieved or maintained and are not expected to be achieved without additional control measures, and

(ii) those coastal waters that, although currently meeting applicable water quality standards and protecting designated uses, are threatened by reasonably foreseeable increases in pollutant loadings from new or expanding sources of pollution;

(B) for those coastal waters identified under subparagraph (A), identify and implement pollution control measures (including quality based effluent limitations and best management practices) applicable to point and nonpoint sources of pollution, that based upon the best scientific information available are necessary to achieve and maintain coastal water quality standards and protect designated uses, utilizing authorities under this Act, including (where appropriate) the control strategies of subsection (1), approved programs under section 319, and approved plans under section 320, and authorities under the Coastal Zone Management Act of 1972, including section 306B;

(C) identify coastal waters requiring additional intensive efforts beyond those required by subparagraph (B) and develop and implement detailed remedial programs for those waters consisting of load and wasteload allocations devel-

oped and implemented pursuant to section 303(d) of this Act and section 306B of the Coastal Zone Management Act of 1972;

(D) establish a system whereby the Governor of the coastal State, or any other appropriate State authority, shall certify that the issuance or renewal of any discharge permits, and the undertaking of any other activities that are subject to the pollution control measures identified pursuant to subparagraph (B), or (C), complies with and is fully consistent with such pollution control measures;

(E) ensures ample opportunity for public participation in all elements of the program; and

(F) establishes mechanisms to improve coordination among State officials and State and local officials responsible for land use programs and permitting, water quality planning and permitting, habitat protection, and living resource management.

(3) PROGRAM APPROVAL.—(A) No later than 2½ years after the effective date of this subsection, each coastal State shall submit to the Administrator and the Under Secretary the program required by this subsection. The Administrator, in consultation with the Under Secretary, shall approve the program if the Administrator finds it meets the requirements of this subsection. The Administrator and the Under Secretary shall approve the portions of the program which relate to section 306B of the Coastal Zone Management Act of 1972 if the Administrator and the Under Secretary find that such portions meet the requirements of this subsection. If the proposed program does meet the requirements, the Administrator and the Under Secretary shall coordinate their findings and promptly inform the State of the modifications that are necessary to meet the requirements and provide a reasonable time, not to exceed 6 months, within which the modifications may be made.

(B) All applications from States for grants and other assistance pertaining to coastal waters under this section, section 319 or 320 of this Act, or section 306B of the Coastal Zone Management Act of 1972 shall describe in detail the manner in which State water quality, coastal zone, and other appropriate officials will use such assistance to implement the program required by this section.

(C) The Administrator and the Under Secretary shall not provide any Federal financial assistance to a coastal State to implement section 319 or 320 of this Act or section 306B of the Coastal Zone Management Act of 1972 with respect to coastal waters if the State does not submit an approval coastal waters quality protection program for the State under this subsection within 3 years after the effective date of this subsection. The prohibition of this subparagraph shall terminate with respect to that State upon the approval of a program for that State.

(4) DEFINITIONS.—In this section and sections 303, 305, and 309—

(A) the term "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of

Mexico, Long Island Sound, or one or more of the Great Lakes;

(B) the term "coastal waters" means (i) the waters of the Great Lakes under the jurisdiction of the United States, including their connecting waters, harbors, bays, wetlands, and marshes; (ii) those portions of rivers, streams, and other bodies of water of the United States having unimpaired connection with the open sea and which contain a measurable quantity or percentage of sea water, including salt wetlands, coastal and intertidal areas, bays, harbors and lagoons; and (iii) waters of the territorial sea of the United States; and

(C) the term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

(o) MARINE COMBINED SEWER OVERFLOWS.—For the purposes of adopting or revising effluent limitations for marine combined sewer overflows under this Act, the Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish not later than 1 year after the date of the enactment of this subsection regulations to require screening or other interim measures to control floatables in marine combined sewer overflow discharges.

#### WATER QUALITY INVENTORY

SEC. 305. (a) \* \* \*

(b)(1) Each State shall prepare and submit to the Administrator by April 1, 1975, and shall bring up to date by April 1, 1976, and biennially thereafter, a report which shall include—

(A) \* \* \*

(D) an estimate of (i) the environmental impact, (ii) the economic and social costs necessary to achieve the objective of this Act in such State, (iii) the economic and social benefits of such achievement, and (iv) an estimate of the date of such achievement; [and]

(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs [.] ; and

(F) for coastal States, a description of—

(i) the activities undertaken to establish and implement water quality standards based upon biological criteria for coastal waters within the State; and

(ii) the activities to develop and implement pollution control measures pursuant to the State's coastal water quality protection program under section 304(n) of this Act.

## FEDERAL ENFORCEMENT

## SEC. 309. (a)(1) \* \* \*

*(7) Whenever on the basis of any information the Administrator finds that a coastal State has failed to develop, implement, or enforce a coastal water quality protection program under section 304(n), the Administrator shall issue an order requiring the State to comply with such section or requirement, or shall commence a civil action in accordance with subsection (b).*

*(h) Notwithstanding any limitation on the amount of a penalty under this section, any penalty assessed by the Administrator or a court in a civil action against a person discharging pollutants into coastal waters for a violation of applicable effluent limitations or other permit requirements shall, where possible, be in an amount adequate to eliminate any economic benefit or savings, including interest, that may have accrued to that person as a result of the violation.*

## MARINE SANITATION DEVICES

## SEC. 312. (a) \* \* \*

*(k)(1) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States or political subdivisions thereof to carry out the provisions of this section. The provisions of this section may also be enforced by a State.*

*(2)(A) A Governor may request in writing that the Secretary of the department in which the Coast Guard is operating enter into, and the Secretary may enter into, a cooperative agreement with the Governor that will authorize the State or its political subdivisions to enforce the requirements of this section. The request shall be accompanied by whatever additional documentation the Secretary considers necessary to assess the ability of the State or its political subdivisions to enforce this section fairly and efficiently.*

*(B) The Secretary shall respond to a written request of a Governor under this paragraph not later than 180 days after receiving the request. If the Secretary denies the request, the Secretary shall describe fully the reasons for the denial and provide the Governor an opportunity to revise the request to the satisfaction of the Secretary.*

*(C) If the Secretary enters into an agreement with a Governor under this subsection (including a cooperative agreement under this paragraph), such agreement shall authorize the State or its political subdivisions to assess the penalties authorized by this section. Any penalties so assessed shall be retained by the State or a political subdivision thereof to further the purposes of this section.*

(3) *Nothing in this section shall be construed as prohibiting or otherwise limiting the authority of a State to adopt and enforce more stringent requirements than those contained in this section.*

\* \* \* \* \*

CLEAN LAKES

Sec. 314. (a) \* \* \*

(c)(1) \* \* \*

(2) Three is authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1973; \$100,000,000 for the fiscal year 1974; \$150,000,000 for the fiscal year 1975, \$50,000,000 for fiscal year 1977 \$60,000,000 for fiscal year 1978, \$60,000,000 for fiscal year 1979, \$60,000,000 for fiscal year 1980, \$30,000,000 for fiscal year 1981, \$30,000,000 for fiscal year 1982, such sums as may be necessary for fiscal years 1983 through 1985, [and] \$30,000,000 per fiscal year for each of the fiscal years 1986 through 1990, *and such sums as may be necessary for fiscal years 1991 and 1992* for grants to States under subsection (b) of this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the State with approved methods and procedures under subsection (a) of this section.

\* \* \* \* \*

SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

(a) \* \* \*

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out subsection (h) and (i) not to exceed \$70,000,000 for fiscal year 1988 \$100,000,000 per fiscal year for each of fiscal years 1989 and 1990, [and] \$130,000,000 for fiscal year 1991, *and such sums as may be necessary for fiscal year 1992*; except that for each of such fiscal years not to exceed \$7,500,000 may be made available to carry out subsection (i), Sums appropriated pursuant to this subsection shall remain available until expended.

\* \* \* \* \*

SEC. 320. NATIONAL ESTUARY PROGRAM

(a) **MANAGEMENT CONFERENCE.**—

(1) \* \* \*

(2) **CONVENING OF CONFERENCE.**—

(A) \* \* \*

(B) **PRIORITY CONSIDERATION.**—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor); Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albermarle Sound, North Carolina; Sarasota Bay,

Florida; San Francisco Bay, California; Santa Monica Bay, California; Galveston Bay, Texas; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; [and] Peconic Bay, New York; *St. Johns River Estuary, Florida; and Morro Bay, California.*

\* \* \* \* \*

(b) **PURPOSE OF CONFERENCE.**—The purpose of any management conference convened with respect to an estuary under this subsection shall be to—

(1) \* \* \*

\* \* \* \* \*

(4) develop a comprehensive conservation and management plan, *within 5 years after the date on which the management conference is convened*, that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

\* \* \* \* \*

[(e) **PERIOD OF CONFERENCE.**—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

[(f) **APPROVAL AND IMPLEMENTATION OF PLANS.**—

[(1) **APPROVAL.**—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

[(2) **IMPLEMENTATION.**—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

[(g) **GRANTS.**—

[(1) **RECIPIENTS.**—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

[(2) **PURPOSES.**—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

[(3) **FEDERAL SHARE.**—The amount of grants to any person (including a State, interstate, or regional agency or entity)

under this subsection for a fiscal year shall not exceed 75 per cent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.]

(e) **PERIOD OF CONFERENCE.**—A management conference convened under this section shall be convened for a period of at least 10 years. The Administrator may extend a conference after that period for an additional 5 years if the affected Governor or Governors concur in the extension and the extension is necessary to meet the requirements of this section.

(f) **APPROVAL AND IMPLEMENTATION OF PLANS.**—

(1) **APPROVAL.**—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve the plan if—

(A) it meets the requirements of this section;

(B) it specifies the implementation responsibilities, including funding responsibilities and implementation schedules, of the Federal Government and of State and local governments that participated in development of the plan; and

(C) the affected Governor or Governors concur.

(2) **IMPLEMENTATION.**—Upon approval of a conservation and management plan under this section, the Administrator shall ensure that the Federal responsibilities and commitments under the plan are complied with and implemented. The Administrator, in conjunction with the management conference, shall—

(A) oversee and provide assistance to the management conference for implementation of the plan;

(B) coordinate Federal and State programs necessary for implementing the plan;

(C) make recommendations to the management conference on enforcement and technical assistance activities necessary to ensure compliance with and implementation of the plan;

(D) collect and make available to the public publications and other forms of information relating to implementation of the plan;

(E) make plan implementation grants under subsection (g); and

(F) provide administrative and technical support to the management conference.

(3) **FUNDING.**—Funds authorized to be appropriated under section 697, section 319, and subsection (i)(2) of this section may be used in accordance with the applicable requirements of this Act to assist States with the implementation of a conservation and management plan under this section.

(g) **GRANTS.**—

(1) **RECIPIENTS.**—The administrator may make grants under this subsection to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(2) **PURPOSES.**—Grants under this subsection shall be made for—

(A) development of conservation and management plans under this section, including research, surveys, studies, modeling, and other technical work necessary for the development of a plan; and

(B) implementation of conservation and management plans, including any additional research, planning, enforcement, and citizen involvement and education activities necessary to improve plan implementation.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of development of conservation and management plans and 50 percent of the costs of implementation of such plans.

(B) NON-FEDERAL SHARE.—all grants under this subsection shall be made on the condition that the non-Federal share of the costs of activities carried out with the grants are provided from no-Federal sources.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed \$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

[(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

[(2) making grants under subsection (g); and

[(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to \$5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j). ]

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the administrator—

(1) not to exceed \$20,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, for—

(A) expenses related to the administration of management conferences under this section, except that not more than 10 percent of amounts appropriated under this paragraph may be used for that purpose; and

(B) making conservation and management plan development grants under subsection (g)(2)(A); and

(2) Not to exceed \$20,000,000 for each of fiscal years 1991, 1992, 1994, and 1995, for making conservation and management plan implementation grants under subsection (g)(2)(B).

\* \* \* \* \*

#### TITLE IV—PERMITS AND LICENSES

\* \* \* \* \*

## OCEAN DISCHARGE CRITERIA

SEC. 403. [(a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines. Prior to the promulgation of such guidelines, a permit may be issued under such section 402 if the Administrator determines it to be in the public interest.

[(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.]

(a) *Except in compliance with the guidelines issued under subsection (c), no permit may be issued or renewed under section 402 for a discharge into—*

- (1) *the territorial sea;*
- (2) *the waters of the contiguous zone;*
- (3) *the oceans; or*
- (4) *estuaries nominated under section 320.*

(b) *Section 402(d) may not be waived for permits for discharges into estuaries nominated under section 320 or the territorial sea.*

(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, [and the oceans], *the oceans, and estuaries nominated under section 320, which shall include:*

(A) \* \* \*

\* \* \* \* \*

## TITLE V—GENERAL PROVISIONS

\* \* \* \* \*

## CITIZEN SUITS

SEC. 505. (a) Except as provided in subsection (b) of this section and section 309(g)(6), any citizen may commence a civil action on his own behalf—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation [ , or ];

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator [ . ] ; or

(3) against the United States or any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, which is alleged to have committed one or more of the following failures with respect to section 304(n):

(A) failure to develop or revise a plan in accordance with the time limits set forth in such section;

(B) failure to review and decide whether or not to approve a State plan in accordance with the time limits set forth in such section;

(C) failure to withhold Federal financial assistance in accordance with paragraph (3)(C) of such section; and

(D) failure to implement an approved plan in accordance with such section.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, or to enforce a requirement described in subsection (a)(3) and to apply any appropriate civil penalties under section 309(d) of this Act.

(b) No action may be commenced—

(1) \* \* \*

(3) Under subsection (a)(3) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator or the State, as the case may be,

(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State or where there is alleged a failure of the Administrator with respect to a plan of such State described in subsection (a)(3).

#### ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 509. (a) \* \* \*

(b)(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b)(1)(C), (C) in promulgating any effluent standard, prohibition, or pretreatment standard, under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under sections 301, 302, 306, or 405, (F) in issuing or denying any permit under section 402, [and] (G) in promulgating any individual control strategy under section 304(1), and (H) approving a State coastal water quality protection program under section 304(n), may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business which is directly affected by such action upon application by such person: Any such application shall

be made within 120 days from the date of such determination, approval, promulgation, issuance, or denial, or after such date only if such application is based solely on grounds which arose after such 120th day.

\* \* \* \* \*

GENERAL AUTHORIZATION

SEC. 517. There are authorized to be appropriated to carry out this Act, other than serious 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, \$250,000,000 for the fiscal year ending June 30, 1973, \$300,000,000 for the fiscal year ending June 30, 1974, \$350,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending September 30, 1977, \$150,000,000 for the fiscal year ending September 30, 1978, \$150,000,000 for the fiscal year ending September 30, 1979, \$150,000,000 for the fiscal year ending September 30, 1980, \$150,000,000 for the fiscal year ending September 30, 1981, \$161,000,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985, [and] \$135,000,000 per fiscal year for each of the fiscal years 1986 through 1990, and such sums as may be necessary for fiscal years 1991 and 1992.

\* \* \* \* \*

TITLE VI—STATE WATER POLLUTION CONTROL  
REVOLVING FUNDS

\* \* \* \* \*

SEC. 604. ALLOTMENT OF FUNDS.

(a) FORMULA.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 [and 1990] through 1992 shall be allotted by the Administrator in accordance with section 205(c) of this Act.

\* \* \* \* \*

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the purposes of this title the following sums:

- (1) \$1,200,000,000 per fiscal year for each of fiscal year 1989 and 1990;
  - (2) \$2,400,000,000 for fiscal year 1991;
  - (3) [\$1,800,000,000] \$2,000,000,000 for fiscal year 1992;
- \* \* \* \* \*

SECTION 211 OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986.

[SEC. 211. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

[(a) DESIGNATION OF ALTERNATIVE SITES.—Not later than three years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall designate one or more

sites in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972 for the disposal of dredged material which, without such designation, would be disposed of at the Mud Dump (as defined in subsection (g)). The designated site or sites shall be located not less than 20 miles from the shoreline. The Administrator, in determining sites for possible designation under this subsection, shall consult with the Secretary and appropriate Federal, State, interstate, and local agencies.

[(b) USE OF NEWLY DESIGNATED SITE.—Beginning on the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), any ocean disposal of dredged material (other than acceptable dredged material) by any person or governmental entity authorized pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of dredged material at the Mud Dump on or before the date of such designation shall take place at the newly designated ocean disposal site or sites under subsection (a) in lieu of the Mud Dump.

[(c) INTERIM AVAILABILITY OF LAWFUL SITES.—Until the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), there shall be available a lawful site for the ocean disposal of dredge material by any person or governmental entity authorized pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of dredged material at the Mud Dump on or before the date of such designation.

[(d) DESIGNATION PLAN.—Not later than 120 days after the date of the enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions, and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).

[(e) STATUS REPORTS.—Not later than one year after the date of enactment of this Act and annually thereafter until the designation of one or more sites under subsection (a), the Administrator of the Environmental Protection Agency shall submit a report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate describing the status of such designation.

[(f) FUTURE USE OF MUD DUMP RESTRICTED TO ACCEPTABLE DREDGED MATERIAL.—Notwithstanding any other provision of law, including any regulation, the Secretary shall ensure that, not later than the 30th day following the date on which the Administrator of the Environmental Protection Agency makes the designation required by subsection (a), all existing and future Department of the Army permits and authorizations for disposal of dredged material at the Mud Dump shall be modified, revoked, and issued (as appropriate) to ensure that only acceptable dredged material will be dis-

posed of at such site and that all other dredged material determined to be suitable for ocean disposal will be disposed of at the site or sites designated pursuant to subsection (a) of this section.

[(g) DEFINITION OF ACCEPTABLE DREDGED MATERIAL.—For purposes of this section, the term “acceptable dredged material” means rock, beach quality sand, material excluded from testing under the ocean dumping regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to the Marine Protection, Research, and Sanctuaries Act of 1972, and any other dredged material (including that from new work) determined by the Secretary, in consultation with the Administrator, to be substantially free of pollutants.]

[(h) DEFINITION OF MUD DUMP.—For purposes of this section, the term “Mud Dump” means the area located approximately 5¼ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees 23 minutes 48 seconds N, 73 degrees 51 minutes 28 seconds W; 40 degrees 21 minutes 48 seconds N, 73 degrees 50 minutes 00 seconds W; 40 degrees 21 minutes 48 seconds N, 73 degrees 51 minutes 28 seconds W; and 40 degrees 23 minutes 48 seconds N, 73 degrees 50 minutes 00 seconds W.]

## MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

\* \* \* \* \*

### TITLE I—OCEAN DUMPING

#### PROHIBITION ACTS

SEC. 101. (a) Except as may be authorized by a permit issued pursuant to section 102 or section 103 of this title, and subject to regulations issued pursuant to section 108 of this title,

(1) no person shall transport *any material* from the United States for any purpose that includes dumping it into ocean waters or dump any material into ocean waters, and

(2) in the case of a vessel or aircraft registered in the United States or flying the United States flag or in the case of a United States department, agency, or instrumentality, no person shall transport *any material* from any location for any purpose that includes dumping it into ocean waters or dump any material into ocean waters, [any material for the purpose of dumping it into ocean waters.]

\* \* \* \* \*

#### ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) \* \* \*

\* \* \* \* \*

(f) BURNING OF WOOD ON OCEAN WATERS.—

(1) PROHIBITION AGAINST ISSUANCE OF PERMITS AFTER DECEMBER 31, 1991.—After December 31, 1991, the Administrator may not issue any permit under this section which authorizes a person to burn, or to transport for the purpose of burning, wood on ocean waters.

(2) *VALIDITY OF PERMITS ISSUED ON OR BEFORE DECEMBER 31, 1991.*—Any permit issued on or before December 31, 1991, which authorizes a person to engage in an activity described in paragraph (1) shall not be valid after December 31, 1991.

(g) *The Administrator may deny the issuance of permits under this section for the dumping of material which does not comply with the criteria established under subsection (a) relating to the effects of ocean dumping on the marine environment.*

\* \* \* \* \*

#### PENALTIES

SEC. 105. (a) Any person who violates any provision of this title, or of the regulations promulgated under this title, or a permit issued under this title shall be liable to a civil penalty of not more than [ \$50,000 for each violation to be assessed by the Administrator ] \$75,000 for each violation to be assessed by the Administrator, except the maximum amount of any penalty under this paragraph shall not exceed \$200,000. In addition, any person who violates this title or any regulation issued under this title by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than \$125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

\* \* \* \* \*

(i) *Notwithstanding any limitation on the amount of a penalty under this section, in assessing any penalty in a civil action for a violation under this section, the Administrator or the court shall seek where possible to assess a penalty in an amount sufficient to eliminate any economic benefit or savings, including interest, that may have accrued to the violator as a result of the violation.*

(j) *From the sums recovered as penalties or fines under this title, the Administrator may permit the payment of no more than \$10,000 to any person who furnished information which leads to an administrative finding of liability, civil judgment, or criminal conviction under this title.*

\* \* \* \* \*

## COASTAL ZONE MANAGEMENT ACT OF 1972

## TITLE III—MANAGEMENT OF THE COASTAL ZONE

## SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

## CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) \* \* \*

*(k) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.*

## CONGRESSIONAL DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and salt-water intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands [.] ,

(C) the management of coastal development to protect the quality of coastal waters and to prevent the impairment of existing uses of those waters,

[(C)](D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

[(D)](E) public access to the coasts for recreation purposes,

[(E)](F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

[(F)](G) the coordination and simplification of procedures in order to ensure expedited governmental decision-making for the management of coastal resources,

[(G)](H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

[(H)](I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking, and

[(I)](J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies; and

\* \* \* \* \*

#### ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—

(1) finds that such program meets the requirements of section 305(b);

(2) approves such program in accordance with subsections (c), (d), and (e); and

(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend as increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2)(A) through [(I)](J).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2)) that are necessary or appropriate to the implementation of the management program.

\* \* \* \* \*

## RESOURCE MANAGEMENT IMPROVEMENT GRANTS

SEC. 306A. (a) For purposes of this section—

(1) The term "eligible coastal state" means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 306; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through [(1)](J).

\* \* \* \* \*

## SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.

(a) IN GENERAL.—

(1) PROGRAM DEVELOPMENT.—Not later than 3 years after the effective date of this section, the management agency chosen pursuant to section 306(c)(5) by each State for which a program has been approved pursuant to section 306 (hereinafter in this section referred to as the "coastal management agency") shall prepare and submit to the Under Secretary and the Administrator an Aquatic Resources Protection Program (hereinafter in this section referred to as the "program") for approval pursuant to subsection (c). The purpose of the program shall be for the management agency, working in close conjunction with other State and local authorities, to develop and implement measures for managing land uses which cause or contribute to the pollution or degradation of coastal waters.

(2) PROGRAM COORDINATION.—The program shall be developed, submitted, and implemented in conjunction with and as a part of the comprehensive coastal water quality protection program under section 304(n) of the Federal Water Pollution Control Act. In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality authorities. Each program shall be integrated with the State's coastal water quality program under section 304(n) of the Federal Water Pollution Control Act, shall be compatible and coordinated with the programs developed pursuant to section 208, 303, 319, and 320 of that Act, shall incorporate any applicable requirements adopted by the State under that Act or any more stringent water quality requirements adopted pursuant to State law, and shall be coordinated with applicable State water rights requirements.

(b) PROGRAM CONTENTS.—The Under Secretary and the Administrator shall approve a program under this section if it provides for the following:

(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect

designated uses, as determined by the State pursuant to its water quality planning processes;

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources from land uses; or

(C) Outstanding Coastal Resource Waters designated pursuant to section 204 of the Coastal Defense Initiative of 1990.

(2) **IDENTIFYING CRITICAL AREAS.**—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to the land use management measures that are determined by the coastal management agency, in cooperation with the State water quality authority and other State or local authorities, as appropriate, to be necessary to protect and restore coastal water quality and designated uses.

(3) **COASTAL LAND USE MANAGEMENT MEASURES.**—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal management agency, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

(i) pollution control measures identified under section 207(a)(1) of the Coastal Defense Initiative of 1990;

(ii) buffer strips;

(iii) setbacks;

(iv) density restrictions;

(v) techniques for identifying and protecting critical coastal areas and habitats;

(vi) soil erosion and sedimentation control; and

(vii) siting and design criteria for water uses, including marinas.

(4) **TECHNICAL ASSISTANCE.**—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations; technical guidance and modeling to predict and assess the effectiveness of such measures; training; financial incentives; demonstration projects; and other innovations to protect coastal water quality and achieve and maintain designated uses.

(5) **PUBLIC PARTICIPATION.**—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means and measures.

(6) **ADMINISTRATIVE COORDINATION.**—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforce-

ment, habitat protection, and public health and safety, through the use of joint project reviews, interagency certifications, memoranda of agreements, and other mechanisms.

(7) *STATE COASTAL ZONE BOUNDARY MODIFICATION.*—Modification of the boundaries of the State coastal zone as the State determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to section 303. If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) *PROGRAM SUBMISSION AND APPROVAL.*—

(1) *PROCEDURES.*—The submission and approval of a proposed program under this section shall be governed by the procedures established by section 306(g).

(2) *ELIGIBILITY FOR AND WITHDRAWAL OF ASSISTANCE.*—(A) Except as provided in subparagraph (B), if the Under Secretary and the Administrator find that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a portion of grants otherwise available to such State under section 306 of this Act as follows:

(i) 10 percent after 3 years after the date of the enactment of this section.

(ii) 15 percent after 4 years after the date of the enactment of this section.

(iii) 20 percent after 5 years after the date of the enactment of this section.

(iv) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this subparagraph available to State having programs approved under this section.

(B) If the Under Secretary and the Administrator find that a State has made satisfactory progress in developing a program under subsection (a) and that additional time is required for the State to complete necessary statutory or regulatory changes to develop the program, the Under Secretary and the Administrator may authorize no more than 3 additional years for the State to comply with this section.

(3) *GUIDELINES.*—Within 180 days after the effective date of this section, the Under Secretary and the Administrator shall issue guidelines for coastal States to follow in developing a program. Within 18 months after that effective date, the Under Secretary and the administrator shall promulgate regulations governing the receipt, review, and approval of programs under this section.

(d) *TECHNICAL ASSISTANCE.*—The Under Secretary and the Administrator, in consultation with the heads of other Federal agencies, shall each provide technical assistance to State and local governments in developing and implementing programs under this section. The Under Secretary and the Administrator shall coordinate the provision of technical assistance with the guidance provided by

the Administrator under section 207 of the Coastal Defense Initiative of 1990. Such assistance shall include—

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to State and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) **FINANCIAL ASSISTANCE.**—From amounts appropriated pursuant to section 603(c)(1)(B) of the Coastal Defense Initiative of 1990, the Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contributions.

(f) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **UNDER SECRETARY.**—The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

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#### REVIEW OF PERFORMANCE

SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through [(I)] (J), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

\* \* \* \* \*

(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through [(I)] (J); or

(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i)(A) and (B).

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