

there is a second discharge within a three year period, the maximum penalty is \$100,000. The maximum penalty for any subsequent discharge within the three year period is \$500,000.

Under the existing law the penalty for discharging hazardous substances is at the discretion of the Administrator either (1) a penalty between \$500 and \$500,000, or (2) a penalty based on units discharged but not more than \$5,000,000 in the case of a vessel and \$500,000 in the case of a facility.

It provides an unlimited penalty in two types of situations: (1) where the discharge is the result of willful negligence or willful misconduct, or (2) where there is willful failure by the discharger to act to remove the substance discharged as deemed appropriate by the responsible Federal officer specified in the National Contingency Plan prepared under section 311(c)(2) of P.L. 92-500, unless the discharger has taken reasonable actions to remove the discharge.

In addition, section 16 provides that where the discharge is the result of willful negligence or willful misconduct the discharger is liable for an unlimited penalty, to be established by the Administrator, based either on the characteristics of the substance discharged, or the damage to the public health and welfare or both.

Section 16 also amends section 311 to provide that the discharge of any amount of a designated hazardous substance, within the privity and knowledge of the owner or operator, must be immediately reported with failure to do so subject to penalty.

#### SECTION 17—PERMITS FOR DREDGED OF FILL MATERIAL

(Amends section 404 of P.L. 92-500)

Amends section 404 of the Act by defining the term "navigable waters" as used in that section as all waters which are presently used or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. The physical limits of these waters extend shoreward to their ordinary high water mark. In the case of waters subject to the ebb and flow of the tide the physical limits extend also to their mean high water mark except on the west coast where the limit is the mean higher high water mark. This is the definition of navigable waters of the United States which has been enunciated by the courts for the purpose of other regulatory jurisdiction of the Corps of Engineers, except that this definition omits the historical test for navigability.

#### SECTION 18—EMERGENCY FUND

(Amends section 504 of P.L. 92-500)

Establishes a \$5,000,000 contingency fund to be used by EPA in handling emergency situations such as those which present an imminent and substantial danger to public health or welfare, require the protection of persons where the endangerment is to their livelihood, and those which result from natural and other disasters. EPA would be required to report annually to the Congress on its activities under this section.

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

#### SECTION 19—JUDICIAL REVIEW BY U.S. COURT OF APPEALS

(Amends section 509 of P.L. 92-500)

Section 19 adds two items for which a review of actions by the Administrator may be had in the Court of Appeals:

A new item (H) is added to section 509 (b) (1) to provide that the decision of the Administrator to approve a State certification program pursuant to section (b) of the new

subsection 213 of the Act, may be reviewed by the Circuit Court of Appeals of the United States for the Federal Judicial District in which person seeking review resides or transacts business.

Also a new item (G) is added to section 509(b) (1) to expressly provide for review of the Administrator's actions in promulgating or revising regulations, providing guidelines for effluent limitations, under section 304(b) of P.L. 92-500 by any interested person in the Circuit Court of Appeals of the United States for Federal Judicial District in which such person resides or transacts such business.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman's yielding. I would like to propound a question.

Section 10 of the bill changes the existing section 208 Federal contribution for both 1976 and 1977 from 75 percent to 100 percent.

As the gentleman knows, the 1976 appropriation act provided \$53 million for section 208 on the basis of a 75 percent Federal contribution.

The question is: Does the committee construe the language on page 20, lines 19 and 20, "subject to such amounts as are provided in appropriation acts," as authorizing the 1977 appropriations bill to limit both 1976 and 1977 appropriations for section 208 to a Federal contribution of 75 percent?

Is that how the Committee interprets this language?

Mr. JONES of Alabama. That is exactly and precisely correct.

Mr. BOLAND. If the gentleman will yield further, I would like to direct the same question to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, in response to the question of the gentleman from Massachusetts (Mr. BOLAND), we agree with the statement of the Chairman, the gentleman from Alabama (Mr. JONES), and we concur in the position taken.

Mr. BOLAND. I thank the gentleman.

Mr. DON H. CLAUSEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, in the debate on the rule concerning H.R. 9560 the question was raised as to the report language concerning allocations for fiscal year 1978 for construction grants, specifically as it applied to the State of Ohio. In that report language it shows the allocation due Ohio for fiscal year 1977 to be the sum of \$282,500,000; then it shows the allocation due the State of Ohio for the fiscal year 1978 to be the sum of \$239 million.

This is a typographical error, Mr. Chairman, and the accurate and true figure appears in the Committee Print 94-35 of the 94th Congress, 2d session, entitled "Allotment of Grant Funds for the Fiscal Years Ending September 30,

1977, and September 30, 1978, for the Construction of Publicly Owned Waste Water Treatment Works." That was printed in May 1976.

The true figure for Ohio in fiscal year 1977 should have been \$282,500,000, as appears in the report, and for the fiscal year 1978, it should have been \$339 million, as it appears in the document I just referred to. That is the accurate figure.

I make this point at this time because other Members may find some discrepancy in the chart printed on page 7 of the report, but that chart does not represent a true reflection of the actual allocations. The true reflection and the accurate figures are contained in the document I made reference to when I pointed out the discrepancy insofar as it applied to Ohio.

Mr. Chairman, I rise in support of this legislation, and I want to urge my colleagues to read the bill carefully. We on the Committee on Public Works and Transportation think it goes a long way to rectify the many problem areas that now exist in the Federal Water Pollution Control Act.

The real guts of this bill is the State certification section. That is the most important section of all, because if we are going to get on with the task we assigned for this country and for ourselves—that is the task of cleaning up the waterways of this Nation—we must eliminate much of the bureaucracy, much of the duplication, and much of the redtape that is bogging down this very worthwhile program.

Mr. Chairman, State certification as provided in H.R. 9560 is intended to speed up construction of waste water treatment works, hold down costs and strengthen the environmental and fiscal integrity of the program.

It would increase the authority, responsibility, and funding of State water pollution control agencies in administering the construction grants program, which has managed to date to obligate less than 10 percent of the \$16 billion we authorized in 1972.

We on the Committee on Public Works and Transportation have consistently maintained that the principal purpose of H.R. 9560 is to enact those amendments which experience has proven over the past 3 years to be needed to make the program work, consistent with the thrust of the original legislation, Public Law 92-500.

State certification exemplifies that approach. It builds on the policies stated in Public Law 92-500 which, had they been carried out as intended, would have moved the program ahead as indeed we intend under State certification.

In my view, it was no exercise in boilerplate rhetoric when we said in 1972 that a chief policy goal of Public Law 92-500 was to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, as stated in section 101(b).

Further, we stated in section 101(f) of the act, that—

It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best

use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

EPA, which strongly supports this provision, would be authorized to delegate to qualified States which seek to participate the authority to certify compliance with the act in developing applications for facilities funding.

Subject to the Administrator's discretion, and to public hearings and judicial review, qualifying States would undertake certification authority—with respect to all or a portion of certain standard requirements specified in the act, as their capabilities warrant, simultaneously or in stages, and subject further to partial or total withdrawal of certification on the basis of poor performance.

All substantive requirements of statute and regulation would still have to be met, and EPA would retain ultimate authority over the program. Specifically excluded from certification would be compliance with applicable laws other than Public Law 92-500, including the National Environmental Policy Act of 1969, with its mandate that environmental and other secondary effects of treatment projects be fully assessed.

Our report on H.R. 9560 makes it clear that as States phase into certification, EPA manpower resources would be freed to perform critically needed audit, inspection, monitoring and trouble-shooting functions.

Just a brief word about costs. Under State certification, a State participating in the certification program or getting geared up to participate would become eligible to use up to 2 percent of its construction funds for this purpose. The so-called Group of Ten, State water pollution control administrators working in continuing consultation with EPA, has told us that the full 2 percent may not be needed in all instances. But even if it were it would be a bargain.

There is no doubt in my mind that this amount would be recouped many times over in terms of improved management, not to mention the cost savings in knocking months if not years off the time needed to develop projects, yielding additional savings by avoiding construction cost escalation.

In conclusion, Mr. Chairman, State certification is a major step forward toward the goals of clean water which we set for the Nation in the 1972 act and should be enacted into law without further delay.

Mr. Chairman, there are some areas of the bill which I find troublesome, particularly section 404. However, the House will have an opportunity to work its will on that section, and regardless of how we come out on that, I am sure the proceedings have advanced to a stage that there will be some amendments on that section. However the outcome of that effort turns out, I would urge my colleagues not to lose sight of the overall compelling requirement that this legislation be passed so that we can get on with the task of cleaning up the waters of this Nation.

Mr. Chairman, that is an effort that every member of the committee and, I am sure, every Member of the Congress sincerely and wholeheartedly supports.

Mr. JONES of Alabama. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ROBERTS), the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, I rise in support of H.R. 9560, the Federal Water Pollution Control Act Amendments of 1976 which amends the Federal Water Pollution Control Act, Public Law 92-500. I would like to congratulate Congressman JONES on his excellent leadership in guiding this bill through the Committee on Public Works and Transportation to bring it before the House today.

H.R. 9560 is the result of almost 4 years of continuous monitoring by the committee of the implementation of Public Law 92-500. This monitoring has taken the form of more than 15 days of intensive investigative hearings by the Subcommittee on Investigations and Review chaired by the gentleman from Texas, the Honorable JIM WRIGHT. Several provisions in the bill are the direct result of the subcommittee's findings.

Also, legislative hearings have been held by the Subcommittee on Water Resources on which I serve as chairman.

At these hearings testimony was received from representatives of the public, industry, local and State government, public interest groups including environmental organizations, and the Environmental Protection Agency, which has the major responsibility of implementing Public Law 92-500. The subcommittee's efforts in developing H.R. 9560 were greatly aided by the presence of two distinguished gentlemen from California—Congressman DON CLAUSEN, the ranking minority member of the subcommittee, and Congressman BUZZ JOHNSON.

At the time H.R. 9560 was being developed the report of the National Commission on Water Quality was not before the Committee. However, some of the Commission's recommendations are similar to several provisions of the bill. Also, several of the provisions in H.R. 9560 were either requested by EPA or have received the Agency's support.

Included among the provisions of the bill are an extension of authorizations, included among those which are of especial importance are grants to interstate and State agencies, program administration funds for EPA, and funds for the clean lakes program.

The Federal Water Pollution Control Act Amendments of 1972 greatly expanded the responsibilities of both the States and EPA. For that reason, Congress provided specific authorizations of funds to assist both the States and EPA. However, neither of these authorizations have been properly utilized, and both EPA and many States still suffer from inadequate staff resources, greatly hindering their ability to carry out the water pollution control program.

Section 3(c) of H.R. 9560 authorizes \$100,000,000 for each of fiscal years 1977 and 1978 for the purpose of providing program grants to State and interstate water pollution control agencies under section 106 of the Federal Water Pollution Control Act.

The section 106 grant program is the principal source for Federal aid to State

and interstate water pollution control agencies. The grants are available to an interstate or State agency to assist them in administering programs for the prevention, reduction, and elimination of water pollution, including enforcement directly or through appropriate State law enforcement officers or agencies. These grants are available to eligible agencies for any fiscal year when the expenditure of non-Federal funds is equal to or greater than that expended during fiscal year 1972 which ended June 30, 1971. Therefore, the moneys authorized by section 106 supplement State funds for activities which include administration of the construction grant program; permitting, monitoring, and enforcing activities; basin plans for all navigable waters within the State; training programs for treatment works operators; a variety of reports that are required by the act; and other requirements of the act.

Public Law 92-500 authorized \$60,000,000 for these grants for fiscal year 1973 and \$75,000,000 for fiscal year 1974. An authorization of \$75 million for fiscal year 1975 was subsequently provided in Public Law 93-592.

Since fiscal year 1973, the Congress has recognized the importance of providing adequate assistance to the State and interstate agencies by appropriating approximately \$10,000,000 more each year than has been requested by the Environmental Protection Agency. Therefore, an average of \$50,000,000 has been appropriated for each of fiscal years 1974, 1975, and 1976.

The increase in Federal assistance to the State and interstate water pollution control agencies has been matched by a nearly three-fold increase in State funding of these operations. In 1968, before the advent of the present law, State funding amounted to \$19,000,000 but by 1976 this had increased to \$80,000,000. Although the total Federal and State funding for these agencies has increased between 1972 and 1976, much of the effects of the increased funding have been eroded by inflation.

The committee's authorization of \$100,000,000 for each of fiscal years 1977 and 1978 is an increase of \$25,000,000 over the level authorized for fiscal year 1975. This increased authorization directly reflects the high priority the committee gives to this program and to the critical role played by State and interstate water pollution control agencies in implementing the Federal Water Pollution Control Act. The ability of many States to further increase State funding for their control agencies appears to be quite limited in the present budgetary and economic climate. This inability occurs at a time when there are renewed efforts and pressure to further increase State program responsibilities under the act. Therefore, the \$10,000,000 level is seen as the minimum amount of Federal assistance required by these agencies to properly fulfill the goals and requirements of the act and is the level of funding for fiscal year 1977 recommended by the committee in its March 15, 1976 report to the Committee on the Budget.

Section 3(g) of H.R. 9560 amends section 517 of the act to authorize \$100,-