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Water Pollution

Major Provisions of H.R. 9560,
Water Pollution Control Act Amendments of 1972

Provisions that the Administration Objects to

- Authorization of \$5 billion for the construction of wastewater treatment plants in FY 1977, \$6 billion for FY 1978 and \$6 billion for FY 1979.
- Authorization of an additional \$350 million (over the present authorization of \$2.6 billion) for the retro-active reimbursement of waste treatment projects previously constructed.
- Authorization of \$150 million for "208" areawide waste treatment planning.
- Specifically authorizes the construction of new collector sewers and the rehabilitation of existing sewers -- both measures directly counter to the Administration's legislative reform package.
- Provides loan guarantees for the non-Federal share (25%) of waste treatment plant construction.
- Authorizes the Administrator of EPA to waive the non-Federal share for a waste treatment plant grant.

Provisions Supported by the Administration

- Provides time extensions for meeting the statutory treatment requirements imposed on municipally owned treatment plants.
- Authorizes the delegation of the day-to-day management of the construction grants program to individual States.
- Authorizes the use of ad valorem taxes in addition to user charges, as a financial basis for authorizing and maintaining municipal waste treatment plants.



Page 31,- strike out lines 11 to 25, inclusive, and insert in lieu thereof the following:

Sec. 17. (a) Subsection (a) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by adding immediately after "navigable waters" the following: "and adjacent wetlands".

(b) Such section 404 is further amended by adding at the end thereof the following new subsections:

"(d)(1) The term 'navigable waters' as used in this section shall mean 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 shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher high water mark on the west coast).

"(2) The term 'adjacent wetlands' as used in this section shall mean (A) those coastal wetlands, mudflats, swamps, marshes, shallows, and those areas periodically inundated by saline or brackish waters that are normally characterized by the prevalence of salt or brackish water vegetation capable of



growth and reproduction, which are contiguous or adjacent to navigable waters subject to the ebb and flow of the tide, and (B) those freshwater wetlands including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to other navigable waters, that support freshwater vegetation and that are periodically inundated and are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

"(e) Except as provided in subsection (f) of this section, the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands is not prohibited by or otherwise subject to regulation under this Act, or section 9, section 10, or section 13 of the Act of March 3, 1899.

"(f) If the Secretary of the Army, acting through the Chief of Engineers, and the Governor of a State enter into a joint agreement that the discharge of dredged or fill material in waters other than navigable waters or adjacent wetlands of such State should be regulated because of the ecological and environmental importance of such waters, the Secretary, acting through the Chief of Engineers, may regulate such discharge pursuant to the provisions of this section. Any joint agreement entered into pursuant to this subsection may be revoked,



in whole or in part, by the Governor of the State who entered into such joint agreement or by the Secretary of the Army, acting through the Chief of Engineers.

"(g) In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized to issue those general permits which he determines to be in the public interest.

"(h) The discharge of dredged or fill material--

"(1) from normal farming, silviculture, and ranching activities, including, but not limited to, plowing, terracing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products;

"(2) for the purpose of maintenance of currently serviceable structures, including, but not limited to, dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments and approaches, and other transportation structures (including emergency reconstruction); or



"(3) for the purpose of construction or maintenance of farm or stock ponds and irrigation ditches,

is not prohibited by or otherwise subject to regulation under this Act.

"(i) The discharge of dredged or fill material as part of the construction, alteration, or repair of a Federal or federally assisted project authorized by Congress is not prohibited by or otherwise subject to regulation under this Act if the effects of such discharge have been included in an environmental impact statement or environmental assessment for such project pursuant to the provisions of the National Environmental Policy Act of 1969 and such environmental impact statement or environmental assessment has been submitted to Congress in connection with the authorization or funding of such project.

"(j) The Secretary of the Army, acting through the Chief of Engineers, is authorized to delegate to a State upon its request all or any part of those functions vested in him by this section relating to the adjacent wetlands in that State if he determines (A) that such State has the authority, responsibility, and capability to carry out such functions, and (B) that such delegation is in the public interest. Any such delegation shall be subject to such terms and conditions as the Secretary deems necessary, including, but not limited to, suspension and revocation for cause of such a delegation."

